

# MARITIME DISPUTES AND SOVEREIGNTY ISSUES IN EAST ASIA

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## HEARING

BEFORE THE

SUBCOMMITTEE ON EAST ASIAN  
AND PACIFIC AFFAIRS

OF THE

COMMITTEE ON FOREIGN RELATIONS  
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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## **MARITIME DISPUTES AND SOVEREIGNTY ISSUES IN EAST ASIA**

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**WEDNESDAY, JULY 15, 2009**

U.S. SENATE,  
SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 2:35 p.m., in room SD-419, Dirksen Senate Office Building, Hon. Jim Webb (chairman of the subcommittee) presiding.

Present: Senator Webb.

### **OPENING STATEMENT OF HON. JIM WEBB, U.S. SENATOR FROM VIRGINIA**

Senator WEBB. Good afternoon. The hearing will come to order.

In this first oversight hearing of the East Asian and Pacific Affairs Subcommittee, in the 111th Congress, we will examine maritime territorial issues in Asia, and how sovereignty issues are impacting the region and United States interests.

No other topic brings into light the enormous and complex challenges facing the United States in Asia. At the pinnacle of this issue is China's growing military, diplomatic, and economic power, not only in the region, but also worldwide. China's evolution has changed the regional economic balance, has enabled China to expand its political influence. Across the East Asian mainland, from Burma to Vietnam, we have heard statements of concern about the impact of China's reach.

As the United States continues its attempt to isolate Burma, due to the human rights policies of its military regime, China's influence has grown exponentially, including the recent announcement of a multibillion dollar oil pipeline project that would enable the Chinese to offload oil obtained in the Persian Gulf and pump it to Yunnan province without having to transit the choke point of the Strait of Malacca.

In Vietnam this past January, General Vo Nguyen Giap, commander in chief of the Vietnam People's Army during the Vietnam war, and former Defense Minister, sent an open letter to the Vietnamese Government. He called for a halt to a huge multibillion dollar Chinese bauxite mining project in Vietnam's Central Highlands, citing environmental damage, harm to ethnic minorities, and, most importantly, his view that it was a threat to Vietnam's national security.

Importantly, China has sought not only to expand its economic and political influence, but also to expand its territory. China's

military modernization has directly supported this endeavor. The PLA Navy is developing blue-water capabilities that will enable it to project power into the region and beyond. China today has 241 principal combatant warships in its navy, including 60 submarines, and the Department of Defense reported earlier this year that the PLA Navy is considering building multiple aircraft carriers by 2020.

In addition to the construction of aircraft carriers, the PLA Navy has been rapidly modernizing its submarine fleet and surface combatants to enhance its ability to project power from its coast. This poses a significant threat to the current geostrategic balance in Asia.

Of particular concern are China's sovereignty claims in the East China Sea and South China Sea. At the forefront of these disputes is Taiwan. However, the attention to this potential conflict has obscured attention to other disputes in the region. China also lays claim to the Senkaku Islands, the Spratly Islands, and the Paracel Islands.

Despite Japan's control over the Senkaku Islands since the end of World War II, and the recognition of others, including the United States, of Japan's sovereignty over these islands, China still claims publicly its sovereignty over the Senkakus.

Furthermore, the Chinese Communist Party has, to my understanding, never officially recognized Japan's sovereignty over the Ryukyu Islands, which includes, importantly, Okinawa.

In the South China Sea, myriad unresolved disputes involve several island groups claimed in whole or in part by China, Vietnam, the Philippines, Taiwan, Malaysia, and Brunei. Key claims focus on the Spratly Islands, composed of 21 islands and atolls, 50 submerged land atolls, and 28 partially submerged reefs. Their total land mass is small, but they spread out over 340,000 square miles. China and Vietnam also claim the Paracels, a smaller group of islands located south of China's Hainan Island.

These disputes seriously impact third countries in the region, and it is important to point out that only the United States has both the stature and the national power to confront the obvious imbalance of power that China brings to these situations. And in that regard, we have an obligation to maintain a geostrategic balance in the region that ensures fairness for every nation in Asia and protects the voice of every country seeking a peaceful resolution to their disputes.

The participation of the United States in these disputes also affects how these countries perceive threats in their regional environment, and what options they may have available to them as they seek to protect their interests. China has demonstrated its willingness to display new military capabilities, and at times to use force to claim maritime territory. In response, other countries in the region are modernizing their naval capabilities, such as Vietnam's recent decision to purchase Kilo-class submarines from Russia.

Additionally, many observers note that China's pattern of intimidation may hinder free and fair economic development in the region. As one example, China's recent detention of Vietnamese fishermen near the Paracel Islands, and its overt threats to United

States oil companies operating in the South China Sea, highlight the increased risks to shipping and fishing, and the limited prospects, resource exploitation. These actions, left unanswered, may threaten the well-being of the region.

These disputes also significantly affect the United States by endangering regional peace and security. As the 1995–96 Taiwan Strait missile crisis demonstrates, the United States is the only world power capable of responding to aggressive and intimidating acts by China. In looking at recent events, it appears that the United States is responding to maritime incidents as singular tactical challenges, while China appears to be acting with a strategic vision. These troubling incidents include, but are not limited to, the EP-3 crisis in 2001, the surfacing of a Chinese submarine in the midst of the USS *Kitty Hawk* carrier battle group in 2006, the harassment of the USNS *Impeccable*, in March of this year, and the collision of a Chinese sub with the USS *John McCain* sonar cable, just last month.

I'm interested to hear our witnesses' thoughts on how the United States should be responding to these sorts of incidents. As a maritime nation, the United States should maintain the quality and strength of its sea power. The recent trajectory of American sea power is, quite frankly, not encouraging. When I first entered the Marine Corps, in 1968, there were 931 combatant ships in the U.S. Navy. When I served as Secretary of the Navy, 20 years later, this battle force numbered 569 ships. At present the U.S. Navy has 284 deployable battleforce ships; 42 percent of them underway on any given day. And, although the quality of China's 241 ships cannot match that of the United States, that quality gap also is closing.

If the United States is to remain an Asian nation and a maritime nation, our Nation's leaders have a choice to make. Our diplomatic corps and our military, and especially our Navy, must have the resources necessary to protect American interests and the interests of our friends and our allies.

To reflect the complexity of maritime disputes in Asia, today's hearing will have two panels. I'd like to extend my thanks to the administration for having Deputy Assistant Secretary Scot Marciel, who also serves as the Ambassador to ASEAN, and Deputy Assistant Secretary Robert Scher, of the Defense Department, to provide the administration's perspective on those issues.

In addition, we have three highly qualified witnesses in our second panel to expound upon the strategic and economic impacts of these disputes.

I thank all of you for appearing today, and look forward very much to hearing your remarks, and also having your insights.

With that, I would like to welcome our first panel, and in whichever order you gentlemen would like to proceed. I would ask that you could summarize your remarks in 10 minutes or so, and your full statements will be entered into the record.

**STATEMENT OF HON. SCOT MARCIEL, DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, AMBASSADOR FOR ASEAN AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC**

Ambassador MARCIEL. Thank you very much, Mr. Chairman.

Chairman Webb and members of the subcommittee, I'm pleased to testify before you today on maritime and sovereignty disputes in East Asia. The sea-lanes that run through East Asia are some of the world's prime arteries of trade. Over half the world's merchant fleet, by tonnage, sails through the South China Sea each year, for example.

These sea-lanes are of great strategic importance to the United States. We have an abiding interest in maintaining stability, freedom of navigation, and the right to lawful commercial activity in East Asia's waterways. We've used diplomacy, commerce, and our military presence, especially that of the U.S. Navy, to keep the peace and protect our interests. Our policy has aimed, also, to support respect for international maritime law, including the U.N. Convention on the Law of the Sea. As you know, Mr. Chairman, this administration supports ratifying the Convention, and in practice our vessels comply with its provisions governing traditional uses of the oceans.

Mr. Chairman, I'd like to focus my remarks on three topics. First, the multiple sovereignty disputes in the South China Sea. Second, recent incidents involving China, and the activities of U.S. naval vessels in international waters, within China's Exclusive Economic Zone, or EEZ. And finally, the strategic contexts of these distinct topics, and how the United States should respond.

China, Vietnam, Taiwan, the Philippines, Malaysia, Indonesia, and Brunei—each claims sovereignty over parts of the South China Sea, including the 200 small land features that make up the Paracel and Spratly Islands chains. Despite the competing claims, the South China Sea is largely at peace and has avoided sustained military conflict.

In 2002, the ASEAN countries and China signed the Declaration on the Conduct of Parties in the South China Sea. While non-binding, it set out some useful principles, such as peaceful resolution, self-restraint, and freedom of navigation, and signaled a willingness among claimants to approach this dispute multilaterally. A multilateral solution that builds on this agreement could offer the best way to preserve the interests of all parties.

The United States does not take sides on the competing legal claims over territorial sovereignty in the South China Sea. In other words, we do not take sides on the claims of sovereignty over the islands and other land features in the South China Sea, or on the maritime zones that derive from those land features. We do, however, have concerns about claims to territorial waters or any maritime zone that does not derive from a land territory. Such maritime claims are not consistent with international law, as reflected in the Law of the Sea Convention. We've urged all claimants to exercise restraint. We've made clear that we oppose the threat or use of force, and any action that hinders freedom of navigation. We would like to see a resolution in accordance with international law, including the U.N. Convention on the Law of the Sea.

We remain concerned about tension between China and Vietnam, as both countries seek to tap potential oil and gas deposits that lie beneath the South China Sea. Starting in the summer of 2007, China told a number of United States and foreign oil firms to stop exploration work with Vietnamese partners in the South China

Sea, or face unspecified consequences in their business dealings with China. We object to any effort to intimidate U.S. companies.

During a visit to Vietnam last September, then-Deputy Secretary of State John Negroponte asserted the right of United States companies operating in the South China Sea and stated that we believe that disputed claims should be dealt with peacefully and without resort to any type of coercion. We've raised our concerns with China directly. Sovereignty disputes between nations should not be addressed by attempting to pressure companies that are not party to the dispute.

Aside from the South China Sea, there are various other maritime disputes in East Asia, which, Mr. Chairman, you've already mentioned. I'd be happy to address these further if you wish. We continue to monitor all disputes, as quarrels over sovereignty can escalate quickly.

I would like to briefly discuss the recent incidents involving China and the activities of U.S. vessels, although my colleague will go into that in more detail. In March 2009, the USNS *Impeccable* was conducting routine operations, consistent with international law, in international waters, in the South China Sea. Actions taken by Chinese fishing vessels to harass the *Impeccable* put ships of both sides at risk, interfered with freedom of navigation, and were inconsistent with the obligation for ships at sea to show due regard for the safety of other ships. We protested these actions to the Chinese, and urged that our differences be resolved through dialogue, not through ship-to-ship confrontations that put our sailors at risk.

Our concerns centered on China's conception of its legal authority over other countries' vessels operating in its Exclusive Economic Zone, or EEZ, and the unsafe way that China sought to assert what it considers its maritime rights. China's view of its rights on this point is not supported by international law. We have stated that clearly to the Chinese, and underscored that United States vessels will continue to operate lawfully in international waters.

In closing, I'd like to look at both of these topics, the EEZ concerns and the overlapping South China Sea claims, in a broader strategic context. Specifically, what do these issues signify for international law and for the evolving power dynamics in East Asia, and how should the United States respond?

The *Impeccable* incident and the sovereignty disputes in the South China Sea are distinct issues that require distinct policy responses. On a strategic level, however, both issues highlighted growing assertiveness by China in regard to what it sees as its maritime rights. In some cases, we do not share, or even understand, China's interpretation of international maritime law. We do believe there are constructive ways to tackle these difficult issues.

On the freedom of navigation in the EEZ by United States naval vessels, we've urged China to address our differences through dialogue. China has now agreed to hold a special session of our military and maritime consultative agreement to take up the issue. In the case of the South China Sea sovereignty dispute, we've encouraged all parties to pursue solutions in accordance with the U.N. Convention on the Law of the Sea, and to build on the 2002 agreement between ASEAN and China.

There is ambiguity in China's claims to the South China Sea, both in terms of the exact boundaries of its claims, and whether it is an assertion of territorial waters over the entire body of water, or only over its land features. In the past, this ambiguity has had little impact on U.S. interests. It has become a concern, however, with regard to the pressure China has put on our energy firms, as some of the offshore blocs that have been subject to Chinese complaint do not appear to lie within China's claim. It would be helpful to all parties if China provided more clarity on the substance of its claims.

We need to be vigilant to ensure our interests are protected. When we have concerns, we will raise them candidly, as we have done over the pressuring of our companies. We know that China has taken a more conciliatory approach to resolving some disputes over land borders, reaching a demarcation agreement last year, for example, with Vietnam. China's diplomacy toward South East Asia has generally emphasized good-neighborliness. China's antipiracy deployment to the Gulf of Aden has been a positive contribution to a common international concern.

We're encouraged by these steps, and hope that China will apply a similar constructive approach to its maritime rights and boundaries. We have a broad relationship with China, Mr. Chairman, as you know. It covers many issues of strategic importance to both countries. We agree on some issues. On some others, we, frankly, have differences. Our bilateral relationship can accommodate those differences and address them responsively through dialogue.

Thank you for the opportunity to testify, and I look forward to answering your questions.

[The prepared statement of Ambassador Marciel follows:]

PREPARED STATEMENT OF DEPUTY ASSISTANT SECRETARY SCOT MARCIEL, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC

Chairman Webb and members of the subcommittee, I am pleased to testify before you today on maritime and sovereignty issues in East Asia. The sea-lanes that run through East Asia are some of the world's busiest and most strategically important. They serve as the prime arteries of trade that have fueled the tremendous economic growth of the region and brought prosperity to the U.S. economy as well. Billions of dollars of commerce—much of Asia's trade with the world, including the United States—flows annually through those waters. Over half of the world's merchant fleet by tonnage sails through the South China Sea alone each year.

The United States has long had a vital interest in maintaining stability, freedom of navigation, and the right to lawful commercial activity in East Asia's waterways. For decades, active U.S. engagement in East Asia, including the forward-deployed presence of U.S. forces, has been a central factor in keeping the peace and preserving those interests. That continues to be true today. Through diplomacy, commerce, and our military presence, we have protected vital U.S. interests. Our relationships with our allies remain strong, the region is at peace, and—as you know well—the U.S. Navy continues to carry out the full range of missions necessary to protect our country and preserve our interests.

Our presence and our policy have also aimed to support respect for international maritime law, including the U.N. Convention on the Law of the Sea. Although the United States has yet to ratify the Convention, as you know Mr. Chairman, this administration and its predecessors support doing so, and in practice, our vessels comply with its provisions governing traditional uses of the oceans.

Issues surrounding maritime and sovereignty disputes in East Asia are multifaceted and complex. With your indulgence, Mr. Chairman, I am going to focus on three topics:

- First, the multiple sovereignty disputes in the South China Sea;
- Second, recent incidents involving China and the activities of U.S. naval vessels in international waters within that country's Exclusive Economic Zone (EEZ);

—And finally, the strategic context of these distinct topics and how the United States should respond.

China, Vietnam, Taiwan, the Philippines, Malaysia, Indonesia, and Brunei each claim sovereignty over parts of the South China Sea, including its land features. The size of each party's claim varies widely, as does the intensity with which they assert it. The claims center on sovereignty over the 200 small islands, rocks, and reefs that make up the Paracel and Spratly Islands chains.

Sovereignty disputes notwithstanding, the South China Sea is largely at peace. Tensions among rival claimants rise and fall. To date, the disputes have not led to sustained military conflict. In 2002, the ASEAN countries and China signed the "Declaration on the Conduct of Parties in the South China Sea." While nonbinding, it set out useful principles, such as that all claimants should "resolve disputes . . . by peaceful means" and "exercise self-restraint," and that they "reaffirm their respect for and commitment to the freedom of navigation in and overflight above the South China Sea, as provided for by the universally recognized principles of international law, including the 1982 U.N. Convention on the Law of the Sea."

More importantly, the 2002 document signaled a willingness among claimants to approach the dispute multilaterally. We welcomed this agreement, which lowered tensions among claimants and strengthened ASEAN as an institution. It has not eliminated tensions, nor has it eliminated unilateral actions by claimants in the South China Sea, but it's a start, and a good basis on which to address conflict in the region diplomatically.

U.S. policy continues to be that we do not take sides on the competing legal claims over territorial sovereignty in the South China Sea. In other words, we do not take sides on the claims to sovereignty over the islands and other land features in the South China Sea, or the maritime zones (such as territorial seas) that derive from those land features. We do, however, have concerns about claims to "territorial waters" or any maritime zone that does not derive from a land territory. Such maritime claims are not consistent with international law, as reflected in the Law of the Sea Convention.

We remain concerned about tension between China and Vietnam, as both countries seek to tap potential oil and gas deposits that lie beneath the South China Sea. Starting in the summer of 2007, China told a number of U.S. and foreign oil and gas firms to stop exploration work with Vietnamese partners in the South China Sea or face unspecified consequences in their business dealings with China.

We object to any effort to intimidate U.S. companies. During a visit to Vietnam in September 2008, then-Deputy Secretary of State John Negroponte asserted the rights of U.S. companies operating in the South China Sea, and stated that we believe that disputed claims should be dealt with peacefully and without resort to any type of coercion. We have raised our concerns with China directly. Sovereignty disputes between nations should not be addressed by attempting to pressure companies that are not party to the dispute.

We have also urged that all claimants exercise restraint and avoid aggressive actions to resolve competing claims. We have stated clearly that we oppose the threat or use of force to resolve the disputes, as well as any action that hinders freedom of navigation. We would like to see a resolution in accordance with international law, including the U.N. Convention on the Law of the Sea.

There are various other maritime-related disputes in East Asia. Japan and China have differences over EEZ limits in the East China Sea, and sovereignty over the Senkaku Islands. These disputes have drawn less attention than those in the South China Sea. We continue to monitor developments on all of these maritime disputes, as quarrels over sovereignty can escalate quickly in a region where nationalist sentiment runs strong.

I would now like to discuss recent incidents involving China and the activities of U.S. vessels in international waters within that country's Exclusive Economic Zone (EEZ). In March 2009, the survey ship USNS *Impeccable* was conducting routine operations, consistent with international law, in international waters in the South China Sea. Actions taken by Chinese fishing vessels to harass the *Impeccable* put ships of both sides at risk, interfered with freedom of navigation, and were inconsistent with the obligation for ships at sea to show due regard for the safety of other ships. We immediately protested those actions to the Chinese Government, and urged that our differences be resolved through established mechanisms for dialogue—not through ship-to-ship confrontations that put sailors and vessels at risk.

Our concern over that incident centered on China's conception of its legal authority over other countries' vessels operating in its Exclusive Economic Zone (EEZ) and the unsafe way China sought to assert what it considers its maritime rights.

China's view of its rights on this specific point is not supported by international law. We have made that point clearly in discussions with the Chinese and under-

scored that U.S. vessels will continue to operate lawfully in international waters as they have done in the past.

I would note that there have been no further incidents of harassment by Chinese fishing vessels since mid-May.

In closing, I would like to look at both these concerns—the EEZ concerns with China and the overlapping South China Sea claims—in a broader strategic context. Specifically, what do these issues signify for international law and for the evolving power dynamics in East Asia, and how should the United States respond?

The *Impeccable* incident and the sovereignty disputes in the South China Sea are distinct issues that require distinct policy responses from the United States. On a strategic level, to an extent, both issues highlight a growing assertiveness by China in regard to what it sees as its maritime rights. In some cases, we do not share or even understand China's interpretation of international maritime law.

We believe that there are constructive ways, however, to tackle these difficult issues. With respect to freedom of navigation in the EEZ by U.S. naval vessels, we have urged China to address our differences through dialogue. Last month at the Defense Consultative Talks in Beijing, Under Secretary of Defense for Policy Michele Flournoy raised this issue, and the Chinese agreed to hold a special session of our Military Maritime Consultative Agreement (signed in 1998) to take up this issue and seek to resolve differences.

In the case of the conflicting sovereignty claims in the South China Sea, we have encouraged all parties to pursue solutions in accordance with the U.N. Convention on the Law of the Sea, and other agreements already made between ASEAN and China.

The assertions of a number of claimants to South China Sea territory raise important and sometimes troubling questions for the international community regarding access to sea-lanes and marine resources. There is considerable ambiguity in China's claim to the South China Sea, both in terms of the exact boundaries of its claim and whether it is an assertion of territorial waters over the entire body of water, or only over its land features. In the past, this ambiguity has had little impact on U.S. interests. It has become a concern, however, with regard to the pressure on our energy firms, as some of the offshore blocks that have been subject to Chinese complaint do not appear to lie within China's claim. It might be helpful to all parties if China provided greater clarity on the substance of its claims.

We need to be vigilant to ensure our interests are protected and advanced. When we have concerns, we will raise them candidly, as we have done over the pressuring of our companies.

We note that China has taken a more conciliatory approach to resolving some disputes over its land borders. Last year, for example, China and Vietnam concluded a land border demarcation agreement. China's general diplomatic approach to Southeast Asia has emphasized friendship and good-neighborliness. Likewise, China's antipiracy deployment to the Gulf of Aden has been a positive contribution to a common international concern. We are encouraged by these steps, and hope that China will apply the same constructive approach to its maritime rights and boundaries.

We have a broad relationship with China, Mr. Chairman, which encompasses many issues of vital strategic importance to both countries. We agree closely on some issues; on others, we frankly have differences. Our bilateral relationship can accommodate and respect those differences, and address them responsibly through dialogue.

Senator WEBB. Thank you very much, Ambassador Marciel.  
Mr. Scher.

**STATEMENT OF ROBERT SCHER, DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR SOUTH AND SOUTHEAST ASIA, DEPARTMENT OF DEFENSE, WASHINGTON, DC**

Mr. SCHER. Mr. Chairman, thank you for inviting me to appear before your subcommittee today to provide testimony on maritime territorial disputes and sovereignty issues. I'm honored to be here with Deputy Assistant Secretary Scot Marciel.

As you have noted, I've submitted written testimony for the record, so I will try to keep my opening remarks relatively brief, to just highlight some of the key issues.

I do want to commend the subcommittee's continuing interest in this important topic. These issues are central in the Asia-Pacific security equation, and ones that we, in the Department of Defense, are paying very close attention to. I look forward to sustaining an ongoing dialogue with you as dynamics evolve.

The Asia-Pacific region, for the past two decades, has largely been at peace. It has been stable, and that stability has redounded to the benefit of all. Despite this stability, one of the factors that we see potentially challenging the Asia-Pacific security environment—and it is, in fact, the subject of today's hearing—is a series of persistent territorial disputes, particularly disputes over maritime territories in Southeast Asia and the South China Sea.

As I note in my written testimony, the sources of the rising frictions are varied. But clearly China has played a key role in this evolving strategic environment. In analyzing China's activities, I think it's important to draw a distinction between the harassment of United States naval auxiliary vessels near China and, by extension, China's interpretation of the rights of vessels in Exclusive Economic Zones, and China's behavior as it relates to the sovereignty disputes in South China Sea, in general. While it's important to draw this distinction in China's behavior, the basis for the United States response applies equally to both.

As I've noted in the written testimony, the Department of Defense views Chinese behavior in its EEZ, and more broadly in the South China Sea region—an area, by the way, claimed as China territorial waters, but not recognized as such by the international community—as having two basic premises. First, there's the strategic issue of China's claim to sovereignty over the entire South China Sea. This plays out mainly in political and economic fronts, which have been discussed in detail by Scot, and involve many countries within the region. Many, if not most, of these claims are conflicting, notably in areas around the Spratly and Paracel Islands.

Second, to support the growing strategic and political emphasis in this region, China has increased, and is likely to continue to increase, its force's military posture in the South China Sea. As the PLA has upgraded its facilities on Hainan Island, for example, we see a direct correlation with PRC assertiveness in its reaction to U.S. surface and air activity. It is this issue I'd like to address first.

To be clear, the Department strongly objects to provocative, reckless, and unsafe behavior that puts at risk the safety of our vessels and is a clear violation of international norms of behavior in ocean waters outside of territorial seas. Our concerns have been raised at multiple levels, and we continue to leverage all available channels to communicate this position to our PLA counterparts. I will note that, since we have raised these concerns, there have been, in fact, no additional incidents of the kind we saw earlier this year.

We will continue to reject any nation's attempt to place limits on the exercise of high-sea freedoms within Exclusive Economic Zones. Customary international law, codified in the U.N. Convention of the Law of the Sea, guarantees to all nations the right to exercise high-seas freedom of navigation and overflight, as well as the traditional uses of oceans, related to those freedoms within the EEZ.

Our military activity in this region is routine and in accordance with this customary international law. We will continue to conduct operations in the South China Sea, and United States activity will be based on our interest in the region and our desire to preserve security and stability throughout the western Pacific.

Overall, we do recognize that China is taking an assertive position in regard to their rights in Exclusive Economic Zones which they have been projecting through their recent actions. Our policies have not changed, and we will continue to operate our forces based on what we believe is needed to address our interests and the interests of stability in the region. We will look for ways to work with Chinese authorities to minimize tensions around these operations and, as I said, have had discussions that have resulted in better communication between our nations.

Taken together, these events also demonstrate the rightful importance we place on solidifying our military presence in the region and working with our friends and allies to ensure we address and promote our shared interests.

In terms of the South China Sea sovereignty disputes, ably covered by my colleague, I will note that Secretary Gates has said, as recently as the Shangri-La Dialogue in May 2009, that the United States does not take sides in the sovereignty disputes, and supports a peaceful resolution that protects freedom of navigation.

In addition, however, Secretary Gates stated, "Whether on the sea, in the air, in space, or cyberspace, the global commons represents a realm where we must cooperate, where we must adhere to the rule of law and other mechanisms that have helped maintain regional peace." The United States clearly has an interest in keeping sea lines of communication open, avoiding being drawn into regional conflict, encouraging resolution of territorial disputes through multilateral frameworks, and protecting the United States reputation in Southeast Asia.

In support of our policy, the Department has embarked on a multipronged strategy that includes clearly demonstrating, through both word and deed, that United States forces will remain present and postured as the preeminent military force in the region, conducting deliberate and calibrated assertions of our freedom of navigation rights by United States Navy vessels, building stronger security relationships with partners in the region—at both the policy level, through strategic dialogues, and at the operational level, by building partner capacity—and strengthening the military diplomatic mechanisms we have with China to improve communications and reduce the risk of miscalculation.

As I know you have discussed on other occasions, we see the movement of Marines, and the soon-to-come installations on Guam, as a key part of solidifying our presence in the western Pacific, as I noted in my written testimony. All of this effort is designed to reduce volatility. We believe that the South China Sea claimants assess that the United States is a stabilizing regional influence. While we do not propose to arbitrate or remediate the underlying conflicts between competing claims, our presence does provide a sense of stability, and a modicum of breathing room for the claimants to pursue political means to resolve these issues.

Mr. Chairman, thank you, and I am prepared to answer any questions you may have.

[The prepared statement of Mr. Scher follows:]

PREPARED STATEMENT OF ROBERT SCHER, DEPUTY ASSISTANT SECRETARY OF DEFENSE, ASIAN AND PACIFIC SECURITY AFFAIRS, OFFICE OF THE SECRETARY OF DEFENSE, DEPARTMENT OF DEFENSE, WASHINGTON, DC

Mr. Chairman, thank you for inviting me to appear before your subcommittee today to provide testimony on Maritime Territorial Disputes and Sovereignty. These issues are central in the Asia-Pacific security equation, and ones that we in the Department of Defense are paying very close attention to. I commend the subcommittee's continuing interest in this important topic and I look forward to sustaining an on-going dialogue with you as these dynamics evolve.

In a speech that Secretary of Defense Robert Gates delivered on May 30, 2009, at the Institute for International Strategic Studies (IISS) annual defense conference in Singapore, he outlined the remarkable changes that have taken place in the Asian security environment since the end of the cold war. More specifically, in highlighting the growing wealth and improving living standards of the peoples of Asia, Secretary Gates stressed the correlation between stability and economic prosperity, one of the defining characteristics of Asian security dynamics during this period. The Asia-Pacific region for the past two decades has largely been at peace; it has been stable, and that stability has redounded to the benefit of all.

Despite this stability, one of the factors that we see potentially challenging the Asia-Pacific security environment—and the subject of today's hearing—is a series of persistent territorial disputes, particularly disputes over maritime territories in Southeast Asia and the South China Sea, among a number of regional actors. In recent years, we have observed an increase in friction and tension over these disputes, frictions that stand in contrast to the relatively peaceful and cooperative focus on diplomatic solutions that characterized the issue following the landmark 2002 Declaration on the Conduct of Parties in the South China Sea.

The sources of the rising friction are varied—increased demand for oil and natural gas naturally increases the perceived stakes among claimants in securing resource rights; increased attention to the question of sovereignty claims in the runup to the May 2009 deadline for filing extended continental shelf claims under the U.N. Convention on the Law of Sea; rising nationalism, which increases the sensitivity among governments and peoples to perceived slights and infringements related to territory and sovereignty. In addition, China's growing military capabilities have become a factor affecting the tone and tenor of dialogue on regional maritime disputes.

In analyzing China's maritime activities, I think it is important to draw a distinction between the harassment of U.S. naval auxiliary vessels near China and China's approach to its South China Sea claims in general. While it is important to draw this distinction, the basis for the U.S. response applies equally to both.

Harassment by Chinese fishing vessels of United States naval auxiliary ships conducting routine and lawful military operations in China's Exclusive Economic Zone (EEZ) reemerged this year as an irritant in the United States-China relationship. I will note, however, that since May, there have been no further incidents of PRC-flagged fishing vessels harassing U.S. naval vessels.

While any incident at sea is of concern, the decline of these incidents after a brief spike underscores the commitment of the leadership of our two countries to deal with these issues peacefully and through diplomatic channels.

The Department of Defense views Chinese behavior in its EEZ and more broadly in the South China Sea region—a large section of which China claims—as having two basic premises.

First, there is the strategic issue of China's assertion of sovereignty over the bulk of the South China Sea. This plays out mainly on the political and economic fronts which have been discussed in detail by my colleague from the State Department, but suffice to say that China actively opposes any activity by other claimants to assert their own sovereignty claims. Vietnam, Taiwan, the Philippines, Malaysia, Indonesia, and Brunei each claim sovereignty over portions of the South China Sea (SCS); many of these claims are conflicting—notably in areas around the Spratly and Paracel Islands.

Second, to support the growing strategic and political emphasis in this region, China has increased, and will continue to increase, its force posture in the South China Sea. As the PLA has upgraded its facilities on Hainan Island, for example, we see a direct correlation with PRC assertiveness in its reaction to U.S. surface and air activity.

Understanding the strategic premise does not imply that the Department accepts the manner in which China has asserted itself in this region. We strongly object to behavior that puts at risk the safety of our vessels and is a clear violation of international norms of behavior in ocean waters outside territorial seas. The Department will continue to leverage all available channels to communicate this position to our PLA counterparts. Indeed, at the recent Defense Consultative Talks in Beijing held on 23–24 June, this topic was on the agenda. The two sides agreed to convene a Special Meeting under the provisions of the United States-China Military Maritime Consultative Agreement (MMCA) (1998) in the coming weeks to review ways to invigorate the MMCA process, improve communications, and reduce the chances of an incident or accident between our two forces as they operate near each other.

Further, we reject any nation's attempt to place limits on the exercise of high seas freedoms within an exclusive economic zone (EEZ). Customary international law, as reflected in articles 58 and 87 of the 1982 United Nations Convention on the Law of the Sea, guarantees to all nations the right to exercise within the EEZ, high seas freedoms of navigation and overflight, as well as the traditional uses of the ocean related to those freedoms. It has been the position of the United States since 1982 when the Convention was established, that the navigational rights and freedoms applicable within the EEZ are qualitatively and quantitatively the same as those rights and freedoms applicable on the high seas. We note that almost 40 percent of the world's oceans lie within the 200 nautical mile EEZs, and it is essential to the global economy and international peace and security that navigational rights and freedoms within the EEZ be vigorously asserted and preserved.

As previously noted, our military activity in this region is routine and in accordance with customary international law as reflected in the 1982 Law of the Sea Convention. We have consistently reiterated our basic policy toward the competing claims in the South China Sea—most recently at the Shangri-La Dialogue in May 2009, where Secretary Gates stated that the United States does not take sides in the sovereignty disputes and supports a peaceful solution that protects freedom of navigation. In his speech at that event, Secretary Gates stated, “whether on the sea, in the air, in space, or cyberspace, the global commons represents a realm where we must cooperate—where we must adhere to the rule of law and other mechanisms that have helped maintain regional peace.”

As Secretary Gates has said, “we stand for openness, and against exclusivity, and for common uses of common spaces in responsible ways that sustain and drive forward our mutual prosperity.” The United States has an interest in keeping sea lines of communication open; avoiding being drawn into a regional conflict; encouraging resolution of territorial disputes through a multilateral framework that avoids any precedent setting acquiescence; and protecting the United States reputation in Southeast Asia.

In support of our strategic goals, the Department has embarked on a multi-pronged strategy that includes: (1) Clearly demonstrating, through word and deed, that U.S. forces will remain present and postured as the preeminent military force in the region; (2) deliberate and calibrated assertions of our freedom of navigation rights by U.S. Navy vessels; (3) building stronger security relationships with partners in the region, at both the policy level through strategic dialogues and at the operational level by building partner capacity, especially in the maritime security area, and (4) strengthening the military-diplomatic mechanisms we have with China to improve communications and reduce the risk of miscalculation.

Force posture is perhaps the most important component of the first element of our policy outlined above. In this regard, the military buildup on Guam is viewed as permanently anchoring the United States in the region and cementing our “resident power” status. We believe this will have a stabilizing influence on the policies and strategies of South China Sea claimants. The alternative—a power vacuum caused by a U.S. security withdrawal from the region—would leave very little strategic maneuver room for the least powerful among them.

As for the second element of our strategy, U.S. Pacific Command will continue to assert freedom of navigation rights in the region. U.S. Pacific Command will continue to conduct operations in the South China Sea, in strict compliance with customary international law as reflected in the U.N. Convention on Law of the Sea. The United States activity will be governed by our interests in the region, and our desire to preserve security and stability throughout the western Pacific.

The third element of our strategy will focus on expanding and deepening our defense diplomacy and capacity-building programs in the region as important supporting efforts to prevent tensions in the South China Sea from developing into a threat to U.S. interests. To that end, we have recently established high-level defense policy dialogues with Vietnam and Malaysia that complement our already strong consultative mechanisms with Philippines, Thailand, and Indonesia. Through a vari-

ety of security cooperation activities ranging from seminars to multilateral exercises, we are also helping the countries of the region overcome longstanding historical and cultural barriers that inhibit multilateral security cooperation.

Finally, we need to invigorate the mechanisms that we have in place to engage China on this and other security issues, namely the United States-China Defense Consultative Talks, the United States-China Defense Policy Coordination Talks, and the United States-China Military Maritime Consultative Agreement process. These mechanisms provide open and sustained channels of communication to build greater confidence and mutual understanding, discuss candidly our differences, and improve understanding and application of safety standards and rules of the road for operations that improve the safety of sailors and airmen of all countries in the region.

All of this effort is designed to reduce volatility. We believe the South China Sea claimants assess that the United States is a stabilizing regional influence. While we do not propose to arbitrate or mediate the underlying conflicts between competing claims, our presence does provide a sense of stability and a modicum of breathing room for the claimants to pursue political means to resolve these issues.

Senator WEBB. Thank you very much, Deputy Assistant Secretary Scher, for those comments.

I want to start just by asking for one clarification from your written statement, then I'd like to go to this chart and ask both of you some questions that you might react from.

When you mention the relocation of American military from Okinawa to Guam in your statement, you say in your statement, "This military buildup on Guam is viewed as permanently anchoring the U.S. in the region, and cementing our resident power status."

We've been in this region for a very long time and, in fact, the relocation, should it fully occur, actually will be downsizing, in terms of the number of Americans in the region, although centrally locating. I wrote about this, 1973, as I recall—1974. But, how, in your view, would that change our status in the region?

Mr. SCHER. I think—we believe that the movement to Guam solidifies our presence from a couple of respects. One, it does more centrally locate our presence, and shifts our presence out of simply a northeast Asia presence, and makes it more appropriately positioned for the entirety of the East Asia-Pacific region. Also, the movement has to be seen, I think, as part of the continuing alliance with Japan, and putting that alliance on the right footing, so that we can continue to maintain our close cooperation in Japan, with the forces we have there, and the security presence, as well.

Those two pieces, I think, are the center of that. The resident remark, obviously, is building upon Secretary Gates' remarks at the Shangri-La Dialogue last year, making the point and trying to reassure our allies—that in fact we have been resident in the western Pacific, and have territory in the western Pacific, and have been there for, as you say, for an extended period of time.

So, we see that movement helping in those respects.

Senator WEBB. Would you say that the idea that Guam is American soil is a part of this permanent anchoring? I'm not quite sure where you're going in your statement, here.

Mr. SCHER. Absolutely. I think we're trying to draw attention to counter an argument that, I think—I know I hear occasionally in East Asia, the fact that we aren't a part of East Asia, and so it is too easy for the United States to pull back from East Asia. And, in fact, while that was never our intention, regardless, Secretary Gates was trying to make the point that, in fact, we are a resident—a territorial—we have territory in the western Pacific, and we are a resident power. And so, there's not a question of pulling

back. It is impossible for us to do so. And Guam is one clear manifestation of that.

Senator WEBB. Plus, I would venture, an appropriate sea power presence that comes from a properly configured navy.

Mr. SCHER. Without a doubt, sir.

Senator WEBB. Gentlemen, I don't know if you can see this map. Are you able to see this map?

I had my staff put this together, there are lines on it—we may have to pull it further forward. But, the purpose of the map, was to, in the first instance, illustrate the region, and second, through the red lines, to show what happens when you combine, on the one hand, sovereignty claims, with, on the other, the concept of the EEZ, which is basically rights of control in terms of movement. And when you put the two together on the map, what you basically have is a pretty good percentage of the South China Sea that would be under some sort of claim by China. Would you agree with that?

Mr. SCHER. I would agree that that is a reasonable representation of what the effect might be if you agreed with all of the—

Senator WEBB. The situation in the region, as it respects the current Chinese claims is to the effect that almost all of the South China Sea is in some way claimed by China.

Ambassador MARCIEL. Mr. Chairman, let me try to respond.

Senator WEBB. Would you push the button?

Ambassador MARCIEL. I'll try to respond and hopefully address this.

Part of the problem here is that this so-called “cow's tongue” that's been on maps since, I think, the 1940s. On Chinese maps, it shows the nine dashes going around most of the South China Sea. The Chinese have not really firmly delineated the proposed boundary or explained exactly what their claim is. They've referred to it as a “territorial sea.” But, there is, I think, still a lot of questions about exactly what that claim is. China has, as I said, never formally explained the basis of its claim, nor delineated its boundaries, other than by this referent. So, it's one of the reasons we've asked the Chinese to clarify, what do they mean by this, what exactly are they claiming here in terms of this so-called “cow's tongue”? Because it's not 100 percent clear to us, and, I think, to other parties.

Senator WEBB. But if you proceed from the sovereignty claims that are current, from the Chinese perspective, and the delineation and EEZ, et cetera, you would pretty much have that “cow's tongue,” would you not?

Ambassador MARCIEL. I think that's right, sir.

Senator WEBB. And I appreciate the observation that both of you made several times that the United States does not take sides in issues of sovereignty for many, many reasons. And also, there was a phrase in one of your testimonies, we don't propose to arbitrate or mediate in these instances. But, on the other hand, there is a question as to whether neutrality, in and of itself, is a position that might encourage greater activity, simply because of the imbalance in power between China and some of these countries, particularly when you look at the Spratlys and the Paracels.

So, what signals should we be sending? How should we be reassuring these other countries, that may be feeling intimidated by this increase in activity, that we actually are being neutral?

Ambassador MARCIEL. Mr. Chairman, I think there's a couple things that we are doing, and that we should continue to do. One, as Bob Scher said, our naval activities are continuing normally through these international waters, and we've made it clear that they will continue, based on our interpretation of international law.

Two is, although we've been neutral in the sense of not taking sides, saying, "Yes, this country is right and this country is wrong," we can still be active diplomatically. Not as mediators, so much, but in terms of, certainly, discouraging any provocative acts, or any acts that increase tension, but also, urging that China sit down with ASEAN as a group to resolve this.

I mean, I think, it would be sort of logical to assume that the Chinese would prefer to deal one on one with individual members of ASEAN. I think, for the ASEANs, it makes sense to deal more as a group, for obvious reasons. And, the third point I would make is that, although it's not directly tied to disputed areas, part of what we need to do is to show that we remain very committed and engaged in this region, overall. We're not doing it, as I said, for the purposes of dealing with these disputes, but the fact that we remain engaged, committed, very active, I think, is very important, and something that the countries of Southeast Asia very much want.

Senator WEBB. Mr. Scher, would you have anything—

Mr. SCHER. Absolutely. And I would only add that I think part of our alliances and friendships in the region help to bolster the ability of countries to feel as if they are playing—potentially that they have the ability to play—on a somewhat more even playing field. Although we obviously agree that multilateral action, and unity of action amongst the ASEAN claimants, is probably the best way to approach it.

Senator WEBB. Would you agree that the response of the United States to incidents in this region that we've been discussing is heavily tactical, while Chinese activities are arguably strategic?

Mr. SCHER. I won't venture a guess as to China's tactics and desires and interests. I think we have a clear strategy and what we are trying to achieve with our operations, our alliances, et cetera, given that we are seeing tactical efforts to harass—or, did see tactical efforts to harass our—those operations, we have responded tactically, and think that's appropriate. I'm not willing to venture a guess as to, necessarily, broader strategic vision for China, but I know that—I don't think that we may be reacting tactically, but we have a strategic view as to what we need to do to ensure peace and stability in the region, and maintain our—

Senator WEBB. But here's the actual observation. Just as, I think, Ambassador Marciel's comment was, "Things have been quiet since May." We tend to take these incidents as isolated incidents, and we resolve the incident, and then we dismiss it, and we say things are fine. And yet, if you tie activities together—not only with respect to the United States—if you do the datapoints, and put it over a timeline, what you have is a clear example of incrementalism, which has not been properly responded to. That's the

difference between tactical resolution of a specific problem, but a continuum over time that actually enlarges the problem.

Mr. SCHER. I take your point, Senator. I think that we are willing to see, and to accept for now, until proven otherwise, that the issues that we've discussed with China, we have a reasonably effective resolution, and are not willing to say that they'll necessarily occur again, obviously.

From our strategic point of view, what we are trying to do, we are continuing to do. And no action that China has taken will stop us, or has stopped us, from continuing to pursue those activities that we see in our strategic interests. So, I certainly accept that we are responding tactically to operations that, from the Chinese, that are intended to change what we are doing and—but I think that strategically we have not adjusted what we've—the overall purpose—in our operations. We may have adjusted some of how we've done them, but we're maintaining that which is part of our long-term and strategic efforts.

Senator WEBB. Have we had any clear indications that China's been willing to compromise on any of these sovereignty issues? Have there been any signals from them to that effect?

Ambassador MARCIEL. As I think I mentioned in my testimony, there have been some—particularly on the land border with Vietnam—where they have worked out agreements with the Vietnamese. And I think they've been willing to have more serious discussions and some compromises also in the Gulf—parts of the Gulf of Tonkin.

In the dispute over the so-called “cow's tongue,” or the Spratly Islands and the Paracels, I don't—the closest you could—one could suppose—I make the argument that their proposals for joint development could be seen as a compromise. I think, as you know, the Vietnamese don't really view them as compromises by the Chinese, but generally less willing to compromise in those areas.

Senator WEBB. Has there been a collective viewpoint, from the ASEAN countries, on these activities in the South China Sea?

Ambassador MARCIEL. Not that I've heard. The Vietnamese, as you know, are the most focused, as they've been facing the most pressure. There have been discussions in ASEAN meetings about this. It's not clear to me that—as you know, in ASEAN, you require all 10 countries to have a consensus to take any action. I haven't seen any indications that there's a consensus.

We have suggested to the ASEANs that them working together on this makes a lot of sense, following up on the 2002 Declaration of Principles. But I think there may not be consensus yet.

Senator WEBB. Gentlemen, I appreciate your coming today, your testimony was very valuable, and we will be following this issue very closely over the coming months. Thank you for coming.

Ambassador MARCIEL. Thank you, sir.

Senator WEBB. We'll now go to the second panel. Let me see, here.

We'll have the second panel: Professor Peter Dutton, Mr. Daniel Blumenthal, and Dr. Richard Cronin.

Mr. Dutton is associate professor of strategic studies in China Maritime Studies Institute at the U.S. Naval War College. In 2006, he retired from the U.S. Navy, having served as a Navy judge

advocate, and naval flight officer. His current research focuses on American and Chinese views of sovereignty, and the strategic implications to the United States and the U.S. Navy of Chinese legal and policy choices regarding sovereignty. He has published a wide variety of articles on this subject.

Daniel Blumenthal is a resident fellow at the American Enterprise Institute, and is a current commissioner and former vice chairman of the United States-China Economic and Security Review Commission. Previously he was senior director for China, Taiwan, and Mongolia in the Secretary of Defense's Office of International Security Affairs.

Richard Cronin heads the Southeast Asia Program at the Henry L. Stimson Center, where he's currently researching China's relations with the Mekong Basin countries, United States-ASEAN relations, and issues concerning Japan and Southeast Asia. Dr. Cronin joined the Stimson Center after a long career with the Congressional Research Service, as a senior Asian affairs specialist in the Foreign Affairs Defense and Trade Division, and also was a United States military veteran of the Vietnam war.

Gentlemen, I appreciate all of you coming today. We have some extraordinary breadth of experience at the table. And again, I would ask you to summarize your—don't feel like you have to summarize it too far, but take 10 minutes or less to summarize your statements. Your full statements will be entered into the record.

And, let's see. Mr. Dutton, welcome.

**STATEMENT OF PETER DUTTON, ASSOCIATE PROFESSOR OF STRATEGIC STUDIES, CHINA MARITIME STUDIES INSTITUTE, U.S. NAVAL WAR COLLEGE, WASHINGTON, DC**

Professor DUTTON. There we go, thank you. Thank you very much, Senator, and thank you for inviting me to appear today.

I do have to say two things first. One is that I actually retired as a commander. And second, that I am speaking in my personal capacity, and not necessarily for the Department of Defense or the Department of the Navy.

Senator WEBB. The record will so note.

Professor DUTTON. Thank you.

With my testimony today, I'd like to make the following two points. I've elaborated more in my written testimony. Be happy to answer any questions you have, related to that. The first essential point is that China's East and South China Sea territorial claims are weakly grounded in international law, as they—as it exists today, as are China's antiaccess legal perspectives. And together they pose a challenge to America's regional and global maritime interests, in my view.

The second is that China sees its sovereignty claims in the South China Sea as fundamentally nonnegotiable, yet they seem to feel they are close to being able to grasp and consolidate those claims. In the East China Sea, China appears to be willing to wait for more favorable circumstances in order to press its claims more assertively.

Concerning China's official claims in the South China Sea, I have a different perspective from some of those who have testified already today, which is that they do not actually claim sovereignty

over the waters of the South China Sea, *per se*. Their claim is based on an assertion of territorial sovereignty over the islands, themselves, in the South China Sea, which is articulated in China's law on the territorial sea and contiguous zone. They're very specific in enumerating the islands in the South China Sea that they claim.

Additionally, China's EEZ law asserts its claim to an EEZ extending 200 nautical miles from all of its coastlines. Since all the islands in the South China Sea are claimed as Chinese territory, the effect of the combination of these laws is to claim a Chinese EEZ covering nearly the entire South China Sea. This is problematic for all maritime user states because of another set of Chinese domestic laws, and their perspective on some international law, that expresses the right to limit, or prohibit, foreign military activities in their EEZ. Such control becomes tantamount to the control a sovereign exercises over its zones of maritime sovereignty, but not an actual claim to sovereignty.

While pointing out this distinction may seem like splitting hairs, it's important for a fuller understanding of the broader implications of China's policies for international Law of the Sea, generally. Had China claimed the right to exercise control over military vessels because it claimed sovereignty over the South China Sea, the legal impact of the dispute would have been limited to the waters of the South China Sea, as was the case with Libya's claim to the authority to control foreign military activities in the Gulf of Sidra, based on its excessive claim of sovereignty over those waters.

What makes the Chinese case so significant for United States interests is that, because of the nature of international law, the impact of China's somewhat unique characterization of its EEZ could affect how all EEZs are characterized around the world. Thus, inasmuch as EEZs cover more than one-third of the oceans—world ocean space, China's legal perspectives undermine the interests of all maritime powers and the United States, as a primary guarantor of maritime security, in particular.

America's determination to protect traditional freedoms of navigation for military purposes by maintaining a commitment to globally dominant sea power will have important consequences for the East Asian region and beyond. Indeed, in my view, a maritime arc of antiaccess is developing across the Southern Asian land mass from the Arabian Sea to the Sea of Japan. Of the handful of remaining states that officially maintain legal perspectives that challenge traditional military freedoms of navigation in and above the EEZ, a concentration of these states is situated along the southern coast of Asia astride some of the most critically important sea lines of communication in the world. In this region, Iran, Pakistan, India, Bangladesh, Burma, Malaysia, China, and North Korea all maintain laws that assert some right of control over foreign military activities in the EEZ. I would add that there are more, but they're just not on the Asian Continent.

Vietnam, too, can be added to this list, although it has chosen to draw grossly excessive baselines rather than assert EEZ control as its antiaccess legal method of choice.

This is, in addition to the occasional tacit approval that I personally have heard from representatives of the governments of other countries in the region, that is somewhat approving of the anti-

access approach to the Law of the Sea in the region, in part because it would enable them to keep China at bay.

Some of these countries have been building strong regional navies, while others have been actively seeking nuclear capacity or conventional antiaccess technologies similar to China's in order to provide teeth to their legal perspectives. China's territorial claims over all of the islands in the South China Sea is weak, in that it actually controls relatively few of them and may never, in its long history, have actually maintained effective administration and control over most of them.

While effective administration and exclusive control over territory are the two elements international law generally requires to recognize a sovereign's authority over territory, Chinese scholars also assert a historical right to the islands of the East and South China Sea, based on a longstanding historical perspective. For various reasons, historical claims to sovereignty are legally much weaker than the current occupation and control.

Thus, to the extent that Japan, the Philippines, Vietnam, and Malaysia all occupy islands over which the Chinese claim, "indisputable sovereignty," international law tends to strengthen the hands of the occupier.

Accordingly, China is building a maritime force structure, including its aircraft carrier program, which is shifting the balance of military power in the South China Sea. This may soon effectively prevent its neighbors, many of them U.S. friends and allies, from protecting their own island claims. At the same time, China has become emboldened to use its increasing military and naval power to attempt to disrupt United States naval operations in and above the South China Sea.

Why is China pursuing this course? In my view, China sees itself as on the verge of achieving its long-sought geostrategic dominance of the South China Sea. Perhaps one of the reasons China has increased its activities against American naval vessels in the South China Sea is that it considers among the few things to be standing in its way of consolidating its island claims to be the United States Navy and the American political will to support freedoms of navigation, and the claims of American regional friends and allies.

I suspect that China has identified the latter as the most vulnerable and susceptible to its influence, especially during these challenging economic times, a national military focus, which the United States has, on ground wars in Iraq and Afghanistan. This, in my view, is one of among several reasons that China has embarked on its recent campaign to harass United States naval operations in the region. If they can undermine the political will to continue active United States naval operations in the South China Sea, they do not need to confront the power of the American Navy head-on in order to achieve their objectives. They can erode the American Navy's effectiveness indirectly and achieve the same result. This would be in keeping with China's military doctrine of the three new warfares: Legal warfare, public opinion warfare, and psychological warfare.

Indeed, some thoughtful analysts and academics have suggested that Chinese calculations of American power determine how aggressively it pursues its claims in the South China Sea. Accord-

ing to this line of thinking, China has, for decades, taken advantage of small shifts in their favor in the local power dynamics in the South China Sea. Some Chinese actions can be characterized as opportunistic, such as China's sea battle in 1974 with the Republic of Vietnam beleaguered naval forces to wrest control of several of the Spratly Islands as the United States was completing its withdrawal from South Vietnam. And again in 1976, when China took control of the Paracels from a recently united Vietnam. Then in the spring of 1988, when, in the midst of the tanker wars, American naval power was primarily focused on escorting oil tankers safely through the Strait of Hormuz. China, at that time, engaged in naval battles with Vietnam in the Spratlys and won control of several more islands. Finally, in late 1994, nearly 1995, about 2 years after the United States withdrew its forces from nearby Subic Bay Naval Base in the Philippines, China quietly occupied Mischief Reef, a small coral feature in the South China Sea, close to the Philippine Islands of Palawan, that had previously been administered by the Philippine Government. Chinese naval vessels remained in the vicinity of Mischief Reef long enough for China to consolidate its gain by building military reinforcements on the small island.

More recent shifts in the South China Sea power dynamics could not be characterized as opportunistic. Instead, they are the product of years of Chinese research, development, and investment in military technologies designed to challenge outside access—outside naval access, in particular—to East Asian waters. China's submarine force is steadily improving, as we've mentioned, and augments China's already substantial sea-mine antiaccess capabilities. Additionally, China appears to be developing an antiship ballistic missile program. Thus, given the strength of China's antiaccess technologies and the intensity of its campaign against the legitimacy of four naval activities in the East and South China Sea, China probably perceives that its opportunities for a settlement of the South China Sea claims are in its favor and increasing.

In its maritime dispute with Japan in the East China Sea, China seems to be willing to live with the ambiguity generated by Japanese control over the Senkaku Islands, even as China occasionally takes provocative actions designed to maintain its claim of sovereignty and to wait for some future circumstance in which China is in a stronger position in relation to Japan to press its claim. Additionally, China has made a continental shelf claim that extends to the footsteps of Japan's southernmost island chain near American bases in Okinawa and Sasebo. This claim has many facets. It is, in part, based on Chinese nationalism, partly it is based on international law that allows coastal states to claim the entire continental shelf as a matter of coastal state sovereignty, and partly it is based on the desire to assert military control over the full extent of these waters in time of conflict or crisis. In any case, China's claims are of deep concern to Japan, and China's intentions regarding its claims are of deep concern to American forces in the Pacific.

Thank you, Mr. Chairman.

[The prepared statement of Professor Dutton follows:]

PREPARED STATEMENT OF PETER DUTTON, ASSOCIATE PROFESSOR, CHINA MARITIME STUDIES INSTITUTE, U.S. NAVAL WAR COLLEGE, WASHINGTON, DC

I would like to thank the chairman and this committee for the opportunity to appear before you today.

With my testimony today I hope to make the following points:

1. China's South China Sea legal claims and the activities it has undertaken to enforce them pose a challenge to America's regional and global maritime interests.

2. China sees its sovereignty claims in the South China Sea as fundamentally nonnegotiable, yet close to being within its grasp to consolidate.

3. China is a developing maritime power, but its maritime development is best characterized as a maritime enhancement to China's continental strategic focus, rather than as a rising expeditionary maritime force.

4. The United States should exercise renewed maritime leadership to ensure the regional and global access necessary to our national defense and to the security of the global maritime system generally.

Beginning with China's actual claims in the South China Sea, contrary to what some commentators have suggested, the Chinese Government has not claimed sovereignty over the water space of the South China Sea per se. China's claims of legal control over the sea space of the South China Sea are based in part on its assertion of territorial sovereignty over all of the islands in the South China Sea articulated in China's 1992 Law on the Territorial Sea and Contiguous Zone—under which China claims sovereignty over Diaoyu (Senkaku) Islands in the East China Sea, and in the South China Sea, China claims sovereignty over the Dongsha (Pratas) Islands, the Xisha (Paracel) Islands, the Zhongsha (Macclesfield Bank) Islands and the Nansha (Spratly) Islands.<sup>1</sup> Added to the claims of sovereignty over the islands themselves, China's 1998 Exclusive Economic Zone (EEZ) law asserts its claim to an "exclusive economic zone . . . extending 200 nautical miles from the baselines from which the breadth of the territorial sea is measured."<sup>2</sup> Since all of the islands in the South China Sea are claimed as Chinese territory and included in the baselines section of the 1992 Territorial Sea Law, the effect of the 1998 law is to claim an exclusive economic zone around each of them. In combination, therefore, the two Chinese laws effectively claim a Chinese EEZ covering nearly the entire South China Sea.

Thus, the Chinese Government does not claim that these waters are territorial seas, internal waters, or archipelagic waters, or any other sort of coastal state zone that would confer the rights of sovereignty over broad swaths of the region's oceans. That said, the combination of their territorial claims over the islands of the South China Sea and China's "unique" interpretation of international Law of the Sea relating to coastal state authorities to limit or prohibit foreign military activities in the exclusive economic zone,<sup>3</sup> does appear to be part of a Chinese plan to achieve in the South China Sea exclusive military control over the water space within their U-shaped, nine-dashed line. Such control is tantamount to the control a sovereign exercises over its zones of maritime sovereignty.

Pointing out this distinction may seem like splitting hairs, but it is important to a full understanding of the broader implications for international law generally of China's policies. China does not claim sovereignty over the water space of the South China Sea and the concomitant right to exercise control over foreign military activities as the prerogative of a sovereign—China claims the right to restrict and even to prohibit foreign military activities in these waters as a matter of a coastal state's right to make laws governing its EEZ, which is a nonsovereign zone of special jurisdiction over resources and environmental preservation. Had China claimed the right to exercise control over military vessels because it claimed sovereignty over the South China Sea, the United States would certainly have objected to the claim, primarily on factual grounds, but we could both agree upon the general legal proposition that only with full sovereignty over water space comes the right to control foreign military activities. As such, the legal impact of the dispute would have been limited to the waters of the South China Sea, as was the case with Libya's claim to the authority to control foreign military activities in the Gulf of Sidra based on its excessive claim of sovereignty over those waters.

<sup>1</sup>Law of the People's Republic of China on the Territorial Sea and the Contiguous Zone, February 25, 1992.

<sup>2</sup>Law of the People's Republic of China on the Exclusive Economic Zone and the Continental Shelf, June 26, 1998.

<sup>3</sup>Peter Dutton, Testimony before the U.S.-China Economic and Security Review Commission, June 11, 2009, [www.uscc.gov/hearings/2009hearings/written\\_testimonies/09\\_06\\_11\\_wrts/09\\_06\\_11\\_dutton\\_statement.pdf](http://www.uscc.gov/hearings/2009hearings/written_testimonies/09_06_11_wrts/09_06_11_dutton_statement.pdf).

What makes the Chinese case so significant for U.S. interests is that the impact of our dispute with China over characterization of its EEZ could affect how all EEZs are characterized everywhere around the world. By tying their legal perspective to the legal characterization of the EEZ generally, were China's perspective to become accepted, it could affect the way international law views EEZs everywhere. Thus, inasmuch as EEZs cover more than one-third of all the world's oceans and, of course, 100 percent of all coastal regions, island regions, and many of the world's strategic chokepoints and sea lines of communication, China's legal perspectives undermine the interests of all maritime powers and the United States, as the primary guarantor of maritime security, in particular.

China's territorial claims and its claim to possess EEZ rights over nearly the entire South China Sea is alone controversial enough, since at least four other countries plus Taiwan also claim sovereignty over at least some of the islands, but even more so because many of the islands in the South China Sea are too small to legitimately claim an EEZ under the rules and terms as laid out in the United Nations Convention on the Law of the Sea (UNCLOS). However, in addition, through its domestic law and interpretations of international Law of the Sea China claims the legal right to broadly limit or regulate foreign military activities in and above its EEZ.<sup>4</sup> That, for the United States, is the most problematic and challenging aspect of China's legal claims, since China is building a maritime force structure that will soon effectively prevent its neighbors—many of them U.S. friends and allies—from protecting their own island claims and because China has become emboldened to use its increasing military and naval power to attempt to disrupt U.S. naval operations in and above the South China Sea.

In my view, China sees itself as on the verge of achieving its long-sought dominance over the South China Sea. Perhaps one of the reasons China has increased its activities against American naval vessels in the South China Seas is that it considers among the few things to be standing in its way of consolidating its island claims to be the United States Navy and the American political will to support freedoms of navigation and the claims of American regional friends and allies. I suspect that China has identified the latter as the most vulnerable and susceptible to its influence, especially during these challenging economic times and national military focus ground wars in Iraq and Afghanistan. This, in my view, is one among several reasons that China has embarked on its recent campaign to harass U.S. naval operations in the region: If they can undermine the political will to continue active U.S. naval operations in the South China Sea, they do not need to confront the power of the American Navy head on in order to achieve their objectives. They can erode the American Navy's effectiveness indirectly and achieve the same result.

Indeed, some thoughtful analysts and academics have suggested that Chinese calculations of American power determine how aggressively it pursues its claims in the South China Sea. According to this line of thinking, China has for decades taken advantage of small shifts in their favor in the local power dynamics in the South China Sea.<sup>5</sup> Some Chinese actions can be characterized opportunistic, such as China's sea battle in 1974 with the Republic of Vietnam's beleaguered naval forces to wrest control over several of the Spratly Islands as the United States was completing its withdrawal from South Vietnam, and again in 1976 when China took control of the Paracels from a recently united Vietnam. Then in the spring of 1988, when in the midst of the Tanker Wars American naval power was primarily focused on escorting oil tankers safely through the Strait of Hormuz, China engaged in naval battles with Vietnam in the Spratlys and won control over several more islands. Finally, in late 1994 and early 1995, about 2 years after the United States withdrew its forces from nearby Subic Bay Naval Base, China quietly occupied Mischief Reef, a small coral feature in the South China Sea close to the Philippines Island of Palawan that had previously been administered by the Philippines Government. Chinese naval vessels remained in the vicinity of Mischief Reef long enough for China to consolidate its gain by building military reinforcements on the small island.

More recent shifts in South China Sea power dynamics could not be characterized as opportunistic. Instead they are the product of years of Chinese research, develop-

<sup>4</sup> See, e.g., "Surveying and Mapping Law of the People's Republic of China," August 29, 2002, and "Regulations of the People's Republic of China on the Management of Foreign-Related Marine Scientific Research," October 1, 1996. For an authoritative articulation of the Chinese perspective on the legal rationale for coastal states to limit foreign military activities in the EEZ, see Ren Xiaofeng and Cheng Xizhong, *A Chinese Perspective*, 29 *Marine Policy* (2005), p. 139.

<sup>5</sup> See, e.g., Bonnie S. Glaser and Lyle Morris, "Chinese Perceptions of U.S. Decline and Power," Jamestown Foundation, July 9, 2009 (on line); and Richard Fisher, Jr., "South China Sea Competition: China Contemplates More Mischief," *International Assessment and Strategy Center*, June 28, 2009 (on line).

ment, and investment in military technologies designed to challenge American naval access to East Asian waters. The work of Lyle Goldstein and William Murray documents China's steadily improving submarine force and substantial sea-mine capabilities,<sup>6</sup> for instance, and Andrew Erickson and David Yang's research documents China's developing antiship ballistic missile program.<sup>7</sup> In addition to changing the military balance, China's sustained campaign to try to undermine the legality and legitimacy of routine U.S. naval operations in the South China Sea also appears to be an attempt to change the regional political dynamics. This observation is made with China's doctrine of "Three New Warfare" in mind. The three new warfares articulated under this Chinese military doctrine are legal warfare, public opinion warfare, and psychological warfare. The focus of each of these activities is fundamentally to create and to advance international and domestic legitimacy for China's viewpoint of its sovereignty over the South China Sea islands and its authority to control military activities throughout the South China Sea. An article in *Renmin Haijun* (People's Navy) a couple of years ago stated that the purpose of legal warfare, for instance is to "be far-sighted . . . to discern any problems before they actually arise," in order to "provide a legal pretext for military action," and to "engage in legal contests to vie for the legal initiative" in order to "safeguard national sovereignty and territorial integrity."<sup>8</sup> Thus, these "new" methods of warfare are designed to achieve strategic objectives without having to actually use force by leveraging public opinion alongside the implied threat posed by China's growing military power.

China appears to perceive its opportunities to be increasing for a favorable settlement of its South China Sea claims. The one existing bilateral dialogue on South China Sea disputes of which I am aware seems to be making no progress. The China-Vietnam Steering Committee on Cooperation released a statement after its second meeting in 2008 that both sides had "agreed to solve disputes through negotiations and safeguard peace and stability in the South China Sea." This statement, however, remains at odds with China's repeated insistence that it has "indisputable sovereignty" over the South China Sea Islands, including as recently as May 2009 when it submitted a statement to the United Nations in response to regional claims by the Philippines and Vietnam.<sup>9</sup> If China remains unwilling to concede any of the islands to other claimants, it is hard to imagine what there is to negotiate. In its maritime dispute with Japan in the East China Sea, China seems to be willing to live with the ambiguity generated by Japanese control over the Senkaku (Diaoyu) Islands, even as China occasionally takes provocative actions designed to maintain its claims to sovereignty, and to wait for some future circumstance in which China is in a stronger position in relation to Japan to press its claim.<sup>10</sup> In my view, China is likely to take the same approach to its claims in the South China Sea. If it is not in a strong enough position today to gain acceptance of its sovereignty over the islands, rather than negotiate a partial result China will likely wait until such future time as its position is suitably strengthened to finalize all of its claims.

Nonetheless, with active U.S. involvement it may be possible to bring together all parties to at least open multilateral discussions to manage friction and prevent escalation of competing sovereignty claims, EEZ and continental shelf claims, security claims, and access rights. In the context of such discussions, it might be helpful for the United States to make clear that it supports peaceful resolution of territorial disputes as provided for in the South China Sea Code of Conduct, that we will honor our commitments to our friends and allies in the region by supporting them in case of attack, and that recent increases in Chinese military and armed maritime law enforcement patrols are not helpful. Likewise, all sides must be expected to exercise restraint. The end result could be a historic opportunity for China to demonstrate that its military buildup is indeed part of its larger policy of Peaceful Development and that its intentions toward its neighbors are indeed benign.

On this latter point, there is some regional skepticism, especially in Japan. Indeed, there exists a robust debate within academic and analytical circles in China itself concerning the extent to which China's growing navy should strive to develop "blue water" capabilities. However, in my view there is no indication that Chinese

<sup>6</sup>Lyle Goldstein and William Murray, "Undersea Dragons, China's Undersea Submarine Force," *International Security*, Vol. 28., No. 4, Spring 2004, pp. 161-196.

<sup>7</sup>Andrew S. Erickson and David D. Yang, "On the Verge of a Game-Changer," *Proceedings of the U.S. Naval Institute*, May 1, 2009.

<sup>8</sup>Jin Hongbing, "Legal Warfare: Sharp Tool to Seize the Opportunity to Grab the Initiative," *People's Navy* [Renmin Haijun, in Chinese], May 29, 2006.

<sup>9</sup>Brian McCarten, "Rolling the Waters in the Spratlys, Asian Sentinel," February 4, 2008; and "China Tells Neighbors to Keep Off Disputed Islands," *Reuters*, May 12, 2009.

<sup>10</sup>Xiong Qu, "China Starts Examination of Navigational Safety of East China Sea," *CCTV*, July 3, 2008.

decisionmakers have been persuaded to create a Navy that will challenge the U.S. Navy for command of the seas in the near to medium term. The inevitable result of China's rapid military development over the past two decades, and especially after a Chinese flotilla deployed to the Gulf of Aden to support regional antipiracy operations, is concern that perhaps China's naval buildup could portend Beijing's intention one day of moving beyond development of a maritime defense zone in East Asia to challenge America's global command. However, in my view this would be a highly unlikely development for three reasons.

First, China is unlikely to build a large, expeditionary navy because it is not in the geostrategic interests of a fundamentally continental power to put too much attention and resources into global control of the seas, especially when a maritime superpower exists and provides the service free of charge.<sup>11</sup> Second, others have suggested that China has too many internal economic, political and demographic challenges that will compete for resources and political attention during the remainder of this century for China to be able to afford such an undertaking.<sup>12</sup> To these observations I add a third reason why I do not foresee China becoming an expeditionary sea power: If China intended its growing naval capacity to be used to challenge American sea power outside of the East and South Chinese Seas, a leading indicator of this intention would be a shift in perspective on international Law of the Sea from antiaccess to access, because the capacity to wield naval power without the international law authorities to use it would be an expensive investment with little practical utility. As such, paradoxically, it may be in America's best interest to accept the friction that attends our differing perspectives on international Law of the Sea as one of the manageable costs of separating the fundamental interests of a strong continental power from the fundamental interests of a strong maritime power.

That is not to say that the United States should in any way compromise its values or perspectives related to the international law rights to naval access to the world's oceans for missions related to international peace and security or to missions related to security of the seas from nontraditional threats. Although American perspectives on the Law of the Sea are shared by approximately 140 of the current 157 members of UNCLOS, with the remainder agreeing with China to one degree or another that as coastal states they have the right to impose legal restrictions on foreign military activities in their EEZ's, we cannot take the current state for granted. Indeed, the Chinese perspective holds some attraction even among China's neighbors. Despite the fact that their governments remain among those that are on record as accepting traditional military freedoms in the EEZ, representatives from the Philippines, Indonesia, and other regional states sometimes quietly express general support for the Chinese perspective, if for no other reason than it could help them hold rising Chinese naval power at bay. This unsettling development suggests that our regional partners in Asia also sense the shift in power dynamics in the South China Sea and may need more reassurance than we are currently giving them that the United States remains fully committed to our regional security commitments and to maintaining a dominant naval presence in the region.

Protecting traditional freedoms of navigation for military purposes by maintaining a commitment to globally dominant sea power will have important consequences for the East Asian region and beyond. An arc of antiaccess is developing across the southern Asian landmass from the Arabian Sea to the Sea of Japan. Of the handful of remaining states that officially maintain legal perspectives that challenge traditional military freedoms of navigation in and above the EEZ, a concentration of these states is situated along the southern coasts of Asia astride some of the most critically important sea lines of communication in the world. In this region, Iran, Pakistan, India, Bangladesh, Burma, Malaysia, China, and North Korea all maintain laws that assert some right of control over foreign military activities in the EEZ. Vietnam too can be added to this list, although it has chosen to draw grossly excessive baselines, rather than to assert EEZ control as its antiaccess legal method of choice. This is in addition to the occasional tacit approval for antiaccess perspectives sometimes expressed by scholars and officials from the few remaining regional states not already listed here. Some of these countries have been building strong regional navies, while others have been actively seeking nuclear capacity or conventional antiaccess technologies similar to China's in order to provide teeth to their legal perspectives.

<sup>11</sup> See, e.g., Robert S. Ross, "The Geography of the Peace: East Asia in the 21st Century," *International Security*, Vol. 23, No. 4, Spring 1999, pp. 81–118.

<sup>12</sup> See, e.g., Susan Shirk, "Fragile Superpower: How China's Internal Politics Could Derail its Peaceful Rise," Oxford University Press (2007).

In countering the antiaccess concerns of these coastal states, the United States will need to make it a priority to promote and demonstrate the maritime security benefits that can be provided by strong sea-power capacity combined with broad authorities to access ocean space. Specifically, the United States will need to find opportunities to undertake with China and other in the region cooperative international action to secure the seas from both traditional and nontraditional destabilizers. Additionally, since China clearly aspires to play a more important role in global leadership, as evidenced for instance by its increased commitment to international peacekeeping efforts, working together with China on an equal footing wherever possible will be helpful to the overall relationship.<sup>13</sup> Inviting Chinese naval vessels to participate in future maritime security operations—even as we disagree about some of the applicable legal authorities—should become routine. Achieving a common maritime objective by either operating in separate sectors or operating in the same sector while performing different tasks are approaches demonstrated in current Gulf of Aden operations that deserve close study as models for future cooperation at sea where parties do not necessarily agree on the relevant authorities.

Indeed, China's decision to participate in antipiracy operations in the Gulf of Aden has been an encouraging opportunity to demonstrate the power of a global maritime partnership to bring about the order and stability necessary for the well-functioning of the global system on which the economic health and political strength of all major countries relies. Additionally, such operations enable China to participate meaningfully in the provision of the "global goods" that come from maritime humanitarian and constabulary operations, which are supported by reasonable, access-oriented interpretations of international Law of the Sea.

A final point about United States-China cooperation at sea: Because the East and South China Seas represent strategically important zones for both China and the United States and friction in the region is therefore likely to continue, cooperation is more likely to occur between Chinese and American naval forces the further away they operate from the East Asian coastal regions. The challenge for the United States in interacting with China will be to manage tensions in East Asia while encouraging greater global cooperation. China's aspirations to play a global role as a responsible major power and its willingness to undertake security operations in parallel, if not exactly in direct cooperation, with the United States and other maritime states in the Gulf of Aden suggests that future such opportunities will present themselves and should be welcomed. The more that China works with the United States and like-minded states away from East Asian shores, the greater the chance that the essential factor of trust will begin to enter into the equation of United States-China relations in East Asia. Should opportunities arise for cooperation in East Asia, such as humanitarian assistance or disaster relief, China should be welcomed as a partner. China's new hospital ship may provide opportunities in this regard, and joint regional deployments of U.S. and Chinese hospital ships should be considered in order to bring the benefits of modern medicine to underserved areas of Southeast Asia. Ultimately, such activities could begin to build the essential factor of trust, based on increased military to military contacts, which will help develop the strategic stability that all parties desire.

In conclusion, perhaps the two most important leadership actions the United States could undertake to preserve the navigational freedoms that are of strategic importance to U.S. national security, are first to reassert our position as the global advocate for access-oriented approaches to international Law of the Sea. For too long we have neglected this fundamental pillar of American security. We have either taken for granted that the benefits of our perspective are self-evident and expected that other reasonable state actors would be eventually persuaded to our perspective, or we have simply relied on the strength of our national power to do what is in our maritime interest to do without much regard for what others thought. Today, however, there is not even complete unity of perspective across the various federal agencies that have a hand in oceans policy. The Federal Government would benefit from a comprehensive national oceans policy, and flowing from that policy, a comprehensive strategic communications plan to explain the benefits and strengths of the American perspectives on the oceans.

Second, since October 2007 the United States Navy has been operating under a maritime strategy that reflects international cooperation as one of the most important foundations of global maritime security against both traditional and nontraditional threats. As Admiral Willard recently testified, "our current nonparty status constrains" us in forming partnerships to achieve national and international secu-

<sup>13</sup>Peter Dutton, "Charting A Course: U.S.-China Cooperation at Sea," *China Security*, March 2009.

Admiral Willard also observed that UNCLOS is important because it provides a “robust legal regime for global operations” to counter both traditional and non-traditional threats. To these reasons I would add that China’s active promotion of its antiaccess perspectives—and the receptive audience the message is reaching in some critical parts of the world—reminds us that the current level of freedoms of navigation for military purposes that we currently enjoy cannot be taken for granted. Additionally, China is exercising leadership on these issues from institutional positions inside the Convention. The United States is not. A Chinese judge sits on the International Tribunal for the Law of the Sea. There is no American judge. When negotiations are undertaken to consider changes to the Convention, China will have a seat at that table and a vote; the United States will not. In order to enhance our global leadership position on Law of the Sea issues, and to preserve our national security interests in the oceans from encroachment, it is my view that the United States should join the 157 other states that are currently members and accede to the United Nations Convention on the Law of the Sea at our earliest opportunity.

In conclusion, international Law of the Sea is important and the United States needs to be vigilant to see that our interests in access-oriented approaches to Law of the Sea are preserved. However, strength speaks louder than words. In my view it is essential to our own national security and to the security of many other states that our maritime power be protected from erosion. Power is currently shifting in East Asia, not equalizing, but shifting. America’s best chance to preserve peace in the region is to show respect for China’s newfound regional position by extending the hand of maritime cooperation. However, in order to preserve our own fundamental interests and those of our friends and allies, we must also retain our dominant maritime strength.

Senator WEBB. Thank you. Thank you very much.  
Do you prefer “Professor” or “Commander”?

Professor DUTTON. Professor is fine.

Senator WEBB. Professor. OK, fine. Thank you very much, Professor Dutton.

Mr. Blumenthal, welcome.

**STATEMENT OF DANIEL BLUMENTHAL, RESIDENT FELLOW,  
AMERICAN ENTERPRISE INSTITUTE, WASHINGTON, DC**

Mr. BLUMENTHAL. Thank you very much, Senator Webb. And it’s very much my honor to appear before you today and applaud you for holding this important hearing, paying attention to China’s rise and growing assertiveness along its maritime periphery.

It has been well over a decade—I understand you’ve been writing about this for longer than a decade, but writings I’ve seen a decade ago, when you started writing about this topic, and Chinese naval modernization has outpaced even the most extravagant predictions within that decade.

I think—at the risk of boring some people, I think it’s useful to go through some of the details of this modernization program up front, because it’s actually quite alarming.

In the past decade, China has deployed 38 new diesel and nuclear submarines at a deployment rate of 2.9 subs per year. It has also deployed about 10 new classes of indigenously built destroyers and frigates equipped with lethal antiship cruise missiles. And very germane to what we’re discussing here today, it has, in addition to the over 1,000 ballistic missiles its deployed across from Taiwan to the Nanjing military region, it is getting ready to deploy and innovating a land-based antiship ballistic missile equipped with maneuverable reentry vehicles whose sole purpose could be to hit our mobile surface ships, including the very symbol and cornerstone of our power, the carrier battle group. And I believe they will probably test this capability in the next couple of years.

The reason that I ran through some of these details is because we haven't seen anything like this naval—a naval buildup of this kind since the early cold war, nor has our Navy ever faced a threat of ballistic missiles capable of hitting mobile targets at sea.

And I think you are quite correct when you wrote recently that the Communist Party is making a concerted and calculated attempt to expand China's regional strategic space. This is not just tactics or—it's incrementally doing so, but it is doing so.

One has to question what drives this military buildup, since, indeed, China faces no military threat that anyone can discern. In fact, since the end of the cold war and in the past 30 years since the end of the Sino-Vietnamese war, the region has been, by and large, at peace. Instead, I think that the drivers of this military buildup are very much domestic, a desire for national prestige, and an insecurity by the Chinese Communist Party. Beijing wants to make good on unsettled territorial claims, push out its maritime periphery, and develop alternative pathways to break out into the open ocean.

China is behaving exactly as one might expect of great powers. The only surprise is that anyone thought they would do otherwise. But, that doesn't make their actions any less destabilizing. And here's why. Since the end of World War II, Asia has enjoyed relative security, underwritten, in large measure, by our own military power and set of security commitments. It is within that security cocoon that most Asian nations, including China, have enjoyed peace, prosperity, and increasing internal development.

Asia, by any measure today, is fast becoming the center of gravity of international politics. Yet, China's rise is beginning to change the sense of stability and security that has allowed all of these positive changes to take place.

I will note that, just recently, our great Australia ally issued a defense white paper that, not only raised concerns about China's rising power, but also about our staying power in the region. We, as a nation, want to see an Asia that continues to grow and prosper peacefully, and our allies are looking to us, as they always have, to ensure the peace, given the potential for intense regional security competition. We must, then, I think, not for any reasons of wanting to be overly dominant, but we have to remain Asia's chief guarantor of security for the near future.

And I think we have to view the disputes we're talking about in this context, because both the dispute with the Japanese, which I'll start with, and with the ASEANs, is about much more than just commercial energy interests, although energy interests come into play. This is about great power competition, historical animosity, and the strategy of the Chinese to find alternative resources and alternative supply routes for energy, as well as breaking out into the open ocean.

First, national pride and suspicion of the United States drive China to seek alternative sources and routes of oil supply, preferably closer to the mainland in areas where China can project military power. They no longer want to, over the long term, rely upon our goodwill to protect their sea lines that supply so much of their oil and gas.

Second, the Senkaku/Diaoyu chain resides within what China calls the “first island chain,” a demarcation that runs from the Yellow Sea near South Korea, through the South and East China Seas, an area that includes Taiwan, the Ryukyu, as you mentioned, and waters near Vietnam. China increasingly acts, at least, as if they want to dominate this island chain for defensive and offensive purposes—defensively, because they don’t like the activities of the United States and Japan so close to their shorelines, offensively in the sense that they want to—they see that as a way to break out into the Pacific.

Many Chinese believe that the United States-Japan alliance operates too close to the PRC shoreline and is a part of a containment strategy. This partly explains China’s recent harassment of the *Impeccable*, as well as its downing of the United States surveillance aircraft at Hainan Island, that you mentioned. Basically, China is asserting expansive territorial claims as a part of a strategy to push us back. And I think geopolitics and Chinese maritime strategy hold greater purchase in China over the law. This is only adding to the Japanese sense of security and a sense that they’ll be economically strangled and isolated.

Finally, I would say, about the Senkakus, that the dispute over the EEZ claims also shed some lights about Japanese concerns over the final disposition of Taiwan. For Japanese strategists, Chinese control over Taiwan would put—potentially put Chinese bases even closer to Okinawa and the Ryukyu Islands, and extend the Chinese EEZ out even further, only heightening Japan’s sense of insecurity.

The South China Sea, I think, can be viewed in similar ways, geopolitically. Also, it impinges on the interests of the three great Asian powers—Japan, India, and China.

Let me move—since I’m running out of time, let me move—we know Japan’s concerns—let me move to India.

I think, last year, when it was revealed that China, in fact, had built a base at Hainan Island that can both support submarines, as well as surface combatants, and provide stealthy outlet to the waterways, particularly the Strait of Malacca, the Indians were very vocal, and have been very vocal since then, that the Chinese are trying to find ways to enter into the Indian Ocean and constructing a string of maritime bases and facilities that include Burma, Sri Lanka, and Pakistan. So, in my view, at the core of these disputes are the growing Chinese might. In many ways, the disputes are a symptom of that and a strategy to push out their maritime periphery.

We’ve talked a little bit about the U.S. position. I think it’s fine to stick to general principles regarding peaceful resolution of territorial disputes and freedom of navigation, it—even prudent, given that we want a cooperative relationship with China, and the historical sensitivities involved. But, we also have to be aware of the apparent desire of China to dominate these seas and extent out its freedom—and extend its freedom of action and impede our own. We must ensure that our allies and friends have the strength and backing to stand up against potential coercion. And we, ourselves, have to make good on our diplomatic commitments. While we should intensify our alliance to diplomacy and our diplomacy with China to reassure them about our own intentions, there is no get-

ting around the fact about something that you mentioned in your opening remarks, which is, we must properly resource our military. There's almost a perfect symmetry between the Chinese naval buildup and our own—that I described before—and our own naval drawdown.

I have been asked to say a few words about the role of U.S. sea power in maintaining the balance of power, and I do so humbly, speaking before a former Secretary of the Navy and entering into debates about force posture, which are always contentious. But, let me first make this point, and that is, our defense strategy in the Pacific should not be solely focused on futuristic warfighting scenarios, or thought of even as some kind of science-fiction scenario. Rather, given that China has already changed the regional balance of power, rebalancing should be a day-to-day task of our forces in the Pacific.

One way to conceptualize this is, we need a force—a more robust presence and engagement force in the region, and then a surge force in case of conflict. And I'll speak about the former, because I'm running out of time.

Our fleet, as you mentioned, has not been this small since the early 20th century. While our capabilities are better than the Chinese are, fleet size, given the tasks we have in the region, everything from responding to humanitarian disasters to building up partnership capacity to balancing China, our tasks are just great.

Let me give a rough estimate of some naval requirements that may be necessary in the Pacific, as we move forward. Certainly, an increase in our submarine force so we can maintain a near-constant presence in the East and South China Seas, as well as the Sea of Japan. More submarines are necessary to protect our carrier strike groups and patrol and conduct ISR, as well as other types of antisubmarine warfare capabilities.

Our missile and fleet defenses are currently inadequate, in my view, to the growing Chinese innovations and ballistic missile production, over-the-horizon targeting. Unfortunately, we have come to a point where, if we want to keep our forward-deployed carriers relevant, we need to focus more on protecting them; and for that, we need all sorts of ISR assets in space, as well as on board. While we need a layered missile defense, the most promising defense in this regard is the directed-energy type of weapons. Littoral combat ships can potentially play an important role in maintaining a robust ASW presence, as well as antisurface warfare capability in the littorals.

I'd close by saying you were quite correct when you noted that we are in an odd position—you said this in some statements I saw earlier—where the defense budget announcements have been made before the administration has been able to undergo its Quadrennial Defense Review. My fear—and I urge the Congress to take a look at this—is that the Quadrennial Defense Review will become just a matter of fitting into the already-decided-upon budget cuts and program cuts.

Finally, I'd say I'm confident that diplomacy can succeed in Asia and we can enjoy 30 more years of peace and prosperity, as long as everyone knows that we can back up our commitments.

[The prepared statement of Mr. Blumenthal follows:]

PREPARED STATEMENT OF DAN BLUMENTHAL, RESIDENT FELLOW, AMERICAN  
ENTERPRISE INSTITUTE, WASHINGTON, DC

Senator Webb, members of the committee, it is my honor to appear before you here today. You should be applauded for holding this important hearing and for paying attention to China's rise and growing assertiveness along its maritime periphery.

It has been over a decade since you, Senator Webb, began writing about this topic, and Chinese naval modernization has outpaced even the most extravagant predictions. In the past decade, China has deployed 38 new diesel and nuclear submarines, a deployment rate of 2.9 subs per year. In addition to its purchase of four Russian Sovremenny-class destroyers it has deployed nine new classes of indigenously built destroyers and frigates, equipped with lethal antiship cruise missiles.

Moreover, in addition to its extant deployment of over a thousand ballistic missiles, the PLA has been developing a land-based antiship ballistic missile equipped with maneuverable reentry vehicles whose purpose is to hit our own mobile surface ships, including the linchpin of our power projection capability—the carrier battle group. We have not seen anything quite like this naval buildup since the early cold war. Nor has our Navy ever faced the threat of ballistic missiles capable of hitting mobile targets at sea. And you are quite correct when you write that the Chinese Communist Party is making concerted, calculated attempts to enlarge China's "regional strategic space."

What drives this military buildup? It is not driven by threats to China—by any objective measure, China does not face a military threat. With the fall of the Soviet Union, China no longer must concern itself with protecting its land borders from invasion. Since the end of the cold war the region has, by and large, been at peace.

Instead, I would argue that China's military buildup is driven by domestic factors, the desire for national prestige, and the insecurity of the Chinese Communist Party. China is exhibiting behavior that we would expect from a rising great power. The only surprise is that we expected them to behave differently. The American public has been told time and again by successive administrations and many experts that China's rise would differ from the rise of all other great powers in history. But this is simply not happening.

As China grows stronger and dedicates ever-more resources to its military forces, Beijing wants to settle territorial disputes in its favor, push out its maritime periphery, and develop alternative pathways to break out into the open ocean. Indeed, one of the more interesting developments within Chinese strategic circles is the ongoing debate about the importance of Alfred Thayer Mahan, the theorist of our own rise to international prominence, about which Mr. Dutton's colleagues at the Naval War College have written so much.

Chinese navalists are beginning to grapple with how such concepts as "command of seas" and the link between maritime power and international commercial interests apply to the People's Republic.

We should not be comforted by the fact that China is behaving as all rising powers do. Here is why: Since the end of World War II, Asia has enjoyed relative security, underwritten in large measure by our own military power and set of security commitments. It is within that security cocoon that most Asian nations have enjoyed peace, prosperity, and increasing democratization. Asia today, by almost any measure—economic, political, demographic, and military—is fast becoming the center of gravity of international politics. Yet China's rise is beginning to change the sense of stability and security that has allowed for increasing peace, prosperity, and democratization. As a resident Pacific power, we want to see an Asia that continues to grow and prosper peacefully. An Asia in which the United States is not seen as the clearly predominant military power will inevitably be a less stable Asia. An insecure region will be more concerned with security competition than with trade, internal reforms, and regional cooperation.

It is within that context that I wish to speak about the maritime territorial disputes in the South and East China Seas. Let me begin with Japan and the Senkaku/Diaoyu Islands dispute, since Japan has long been, and remains, our key ally in the region.

Of all the regional territorial disputes, the Sino-Japanese quarrel in the East China Sea is the most vexing, and perhaps most dangerous. The dispute is grounded in great power competition, historical animosity, the desire to exploit potential energy resources beneath the sea, and concerns over the ultimate disposition of Taiwan. This combination of issues is particularly volatile.

Both countries claim sovereignty over the Senkaku/Diaoyu Islands, and both include the islands in their EEZ/Continental Shelf claims. From the Chinese perspec-

tive, the islands are important for reasons of energy security as well as their expanding maritime ambitions.

Let me begin with energy security. Both countries make claims to the Chunxiao gas field which China claims is 5km away from the Japanese median line in the East China Sea. Currently, the Chinese energy company CNOOC is the operator of the field, and energy experts estimate that the Chunxiao could have as much as 250 trillion cubic feet of natural gas and between 70–160 billion barrels of oil.

Since both Japan and China are committed to diversifying their sources of their energy supplies, the natural gas and oil in the East China Sea is of utmost importance to both.

An additional concern for China is the maritime distance between its ports and its main oil suppliers in the Persian Gulf. Beijing is increasingly uncomfortable about relying on U.S. goodwill to patrol those waters. Both national pride and suspicion of the United States drive China to seek alternative sources and routes of supply, preferably closer to the mainland in areas where China can project military power. The Chunxiao field is thus an important piece of Chinese energy security strategy.

Another concern for Chinese strategists is that the Senkaku/Diaoyu chain resides within what the Chinese call the “first island chain,” a somewhat arbitrary demarcation that runs from the southern Japanese island of Kyushu, through the East and South China Seas. This area includes Taiwan, the Ryukus of Japan, and virtually all of the South China Sea. The Chinese increasingly act as though they want to dominate this island chain. For Chinese strategists, there are defensive and offensive purposes behind these claims.

The Chinese write of being boxed in by a United States-Japan alliance that operates too closely to their own shoreline. Once designed to hem in the Soviet Pacific fleet, the alliance is now, Chinese strategists believe, part of an active containment strategy aimed at China. This partly explains China’s recent harassment of the USNS *Impeccable*, as well as its downing of a U.S. surveillance aircraft at Hainan Island in 2001. While the United States and China dispute provisions of the Law of the Sea and what constitutes lawful operations in China’s EEZ, I doubt these issues will be resolved in the near future. Geopolitics and Chinese maritime strategy hold greater purchase over China’s position than the law. Simply put, China wants to push the United States back further and further away from its shoreline and its claimed spheres of influence.

Many Chinese strategists believe that the PRC cannot be a great power as long as the country is held within the maritime box constructed by Tokyo and Washington. The alliance, which also protects Taiwan, prevents the Chinese from projecting sea power into the Western Pacific. From a defensive perspective, Chinese strategists are committed to impeding U.S. access to this “first island chain” should there be a conflict over Taiwan.

From the Japanese perspective, the Senkakus have been part of Japan throughout modern history—Tokyo never ceded that territory, including after losing World War II when it ceded much territory under the San Francisco Treaty. As it stands, Japan administers the Senkakus—while both China and Taiwan claim the island grouping to be theirs.

Japan has leased part of the island grouping from private owners, intending to control any sale of territorial rights. Both Taiwan and China protested this action. Around the same time in 2003, CNOOC entered into a partnership to produce natural gas at Chunxiao.

Japan protested and demanded China turn over seismic data. While Beijing remained intransigent, Japan granted the right to one of its own oil companies to begin drilling in the East China Sea. China responded by sending a naval flotilla, including a Sovereignty to the site and issuing a stern warning to Japan to stop any energy exploration within “China’s” territory. Japan did cease its work.

The Chinese flotilla sent to the East China Sea in 2005 has not been the first show of China’s maritime might. The Japanese declassified documents demonstrating that Chinese military and civilian research vessels and submarines had entered the Japanese EEZ over a dozen times in 2004 and 2005. The purpose of these maritime incursions included mapping for oil and gas exploration in disputed areas, showing force to pressure Japan in the ongoing dispute, and conducting research on submarine routes into and out of the Pacific.

We and the Japanese were quite concerned as well when a Chinese Song-class diesel submarine surfaced a little too close for comfort near the USS *Kitty Hawk* during an American exercise near Japan in 2007. The submarine had apparently been shadowing the Carrier Strike Group undetected.

From the Japanese perspective, then, the Senkaku/East China Sea dispute is about much more than energy interests and international law. It is a manifestation

of growing Chinese strength and assertiveness. Japan has a long history of fearing economic strangulation and isolation. Growing Chinese maritime power and shows of force are only heightening these fears.

Finally, the dispute over EEZ claims and the Senkaku/Diaoyu Islands sheds some light on Japanese concerns over Taiwan. For Japanese strategists, Chinese control over Taiwan would put China's naval bases even closer to Okinawa and the Ryuku Island chain, and extend the Chinese EEZ even further out toward the Pacific. The Japanese sense of insecurity—already high given the instability on the Korean Peninsula—would only heighten.

While the two sides came to some agreement in 2008 to jointly explore for energy resources and shelve territorial disputes for the time being. But given the dynamics I just explained, both sides are keeping their powder dry.

#### THE SOUTH CHINA SEA

The South China Sea disputes, including those over the Spratleys and Paracels, must be similarly analyzed in a geopolitical context. The dispute impinges upon the security interests of three great Asian powers—Japan, India, and China—as well as some of our less powerful allies and partners such as Vietnam and the Philippines.

In essence, China claims sovereignty over all of the South China Sea. Vietnam, the Philippines, Brunei, and Taiwan dispute such claims, particularly those of sovereignty and rights of exploration over the islets around the Spratleys and the Paracels. As in the East China Sea, all claimants to territory within the South China Sea believe that it also holds significant oil and gas reserves. China has sparred with Vietnam and with the Philippines over islands in the Spratlys and with Vietnam over the Paracels. While China signed the Declaration on the Conduct of Parties in the South China Sea in 2002, regional actors do not trust that China will abide by its commitments. Arguably, growing Chinese power and assertiveness in this area were major drivers behind Vietnam's desire to build closer security ties with us, and the Philippines' desire to sign a Visiting Forces Agreement with us in 1999.

The South China Sea is also a pathway to the all-important Strait of Malacca, considered to be one of the world's most important maritime choke points and waterways for seaborne trade. Some 50,000 ships carrying a quarter of the world's seaborne trade, and half of the world's seaborne oil pass through Malacca annually. Since 90 percent of China's and most of Japan's oil comes by sea, it is natural that both countries have abiding interests in their own definition of security in the strait and the South China Sea.

Last year anxiety heightened in Southeast Asia, Tokyo, and Delhi when the press reported on a new naval base that the Chinese have constructed at Hainan Island; the base can accommodate attack and ballistic missile submarines as well as a variety of surface combatants. The People's Liberation Army Navy (PLAN) can use the base to deploy stealthily into the South China Sea and access international waterways.

Southeast Asians are concerned about the potential for China to put military pressure on them to settle their territorial disputes. Tokyo is concerned about the Chinese potential to dominate the waterways and coerce and isolate Japan.

The Indians are concerned for two reasons. First, the discovery of the Hainan Island base adds to a growing Indian perception that the Chinese are finding ways to enter the Indian Ocean and constructing a string of maritime bases and facilities along the Indian Ocean—in Burma, Sri Lanka, and Pakistan—that it will use to project power closer to what India defines as its own sphere of influence.

Second, India has been playing a larger economic role in Southeast Asia in particular and wants unimpeded maritime access to the region. It is concerned that what we are seeing develop for the region is the Chinese-equivalent of a Monroe Doctrine.

#### REGIONAL REACTIONS

For now, all the concerned parties are attempting to balance against China's growing power. Both Hanoi and Manila have sought closer ties with us. Tokyo, a great power constrained in military matters only by its pacifist constitution, has also energetically sought and received an upgraded bilateral alliance. The breakthrough with India was in no small part driven by shared Indian-American perceptions of the maritime security environment.

In short, we share with our regional partners a desire that China not become the hegemonic power. The question that many in the region are beginning to have is whether we have the long-term will and power to match China's rise.

And that leads me to my concluding remarks.

## CONCLUSIONS AND RECOMMENDATIONS

We have not had a clear policy on competing claims within the South and East China Seas, nor have we taken a clear position with respect to the disposition of disputed islands. What we have said is that we will protect freedom of navigation and rights in EEZs consistent with international norms.

Sticking to general principles regarding peaceful resolution of territorial disputes and freedom of navigation may be prudent given the historical sensitivities involved and our desire to have a cooperative relationship with China.

But at the same time we must be aware of China's apparent desire to dominate the South and East China Seas, extend its maritime periphery and freedom of action, and impede our access to these seas.

We must also ensure that our friends and allies have the strength and backing to stand up against potential coercion, and that we ourselves can make good on our diplomatic commitments.

We neither want to see a costly arms race in Asia nor an Asia dominated by China to our exclusion. To accomplish these objectives we should intensify our alliance diplomacy to reassure our allies that they will not be coerced. We should demarcate clear redlines to China regarding core principles of maritime behavior.

But there is no getting around the fact that we must properly resource our military.

There is an almost perfect symmetry between China's naval buildup and our own drawdown. China has deployed dozens of new submarines just as we let our Anti-Submarine Warfare capabilities atrophy. As China deployed dozens of new subs we reduced our submarine force by about 25 boats.

The Chinese have not only noticed the imbalance, they are counting on a continued decline in our naval power. China's Rear Admiral Yang Yi gloated that "China already exceeds the United States in [submarine production] five times over . . . 18 [U.S. submarines—the amount resident in the Pacific] against 75 or more Chinese submarines is obviously not encouraging [from a U.S. perspective]." The Chinese admiral is spot on. U.S. boats are superior, though the quality gap is closing. And the gap in quantity makes keeping track of the Chinese fleet even more difficult.

I have been asked to say a few words about the role of U.S. sea power in maintaining the balance of power. I do so humbly, both because I am speaking to a former Secretary of the Navy and because I am aware that entering into force posture debates is a perilous endeavor.

My institute convened a group of security and military experts to take a close and comprehensive look at our global force requirements ahead of the administration's QDR.

We examined Pacific requirements, and let me share some of our findings.

First let me stress that our defense strategy in the Pacific should not be solely focused on possible war-fighting contingencies. Given that China has already changed the regional balance of power, "rebalancing" should become a day-to-day task of our forces. One way to conceptualize our Pacific force requirements is to think about a more robust presence and engagement force, and a surge force in case of conflict. I will speak mostly about the former.

Our fleet size has not been this small since early in the 20th century. While we have better capabilities and seamen, given the vast expanse of the Pacific, fleet size matters. Our Pacific forces have many tasks besides maintaining the balance of power—they build partnership capacity, respond to natural disasters, and conduct antipiracy missions, for example.

But let me focus on the China mission. A very rough estimate of naval requirements in the Pacific would include an increased presence of fast attack submarines (SSNs) to maintain a near constant presence in the East and South China Seas as well as the Sea of Japan. More submarines are needed to protect our Carrier Strike Groups, monitor Chinese submarines on patrol, and conduct ISR operations. Additional capability requirements include P8s and undersea sensors.

Our missile and fleet defenses are inadequate to the growing Chinese innovations in ballistic missile production and over-the-horizon targeting. Unfortunately, we have come to a point where, if we want to keep our forward deployed carriers relevant, we need to focus more on protecting them.

Useful capabilities to protect maritime assets include satellite-launched detection systems linked to tracking radar; a near constant presence of forward deployed ships capable of ballistic missile defense; and intelligence capabilities to provide to at-risk ships real-time indication and warning of anticarrier missile launches.

While we need a layered missile defense system, directed energy remains the most promising means of defeating these threats, particularly the ASBM. More forward deployed Littoral Combat Ships can potentially play an important role in

maintaining a robust ASW capability and Anti-Surface Warfare capability in the littorals.

All of these capabilities will help us surge if we need to. If our forces need to send more carriers to the region, measures to enhance their survivability will render them more effective. More robust ASW capability will provide us better freedom of action to execute operations. I would say that we should equally emphasize the survivability of our fixed land bases. We should create more logistical hubs in more friendly countries to enable our air forces to surge into the region. And, we must ensure that we have adequate stealthy aircraft and tankers for missions that are sure to be some of the most complex and stressing that we have ever faced.

You were quite correct, Senator Webb, when you noted that we are in an odd position: Our defense budget has been announced before the Obama administration has undergone its own QDR. I would urge the Congress to make sure the administration's defense review is not simply a budget cutting exercise.

Finally, I am confident that diplomacy can succeed and Asia can enjoy more peace and prosperity as long as everyone knows that we can back up our commitments. What is required is good old fashioned American statecraft—speaking softly but carrying a big stick.

Senator WEBB. Thank you very much, Mr. Blumenthal.  
Dr. Cronin, welcome.

**STATEMENT OF DR. RICHARD CRONIN, SENIOR ASSOCIATE,  
THE HENRY L. STIMSON CENTER, WASHINGTON, DC**

Dr. CRONIN. It's a privilege to address the committee—the subcommittee on this issue, which is very close to my own work and interests.

I would just preface my remarks with a point, after hearing the discussion, that I'm suggesting a kind of two-pronged approach. And one, of course, is military preparedness and being ready to deal with whatever China has militarily, but also that there is a need to engage with China and in a way that tries to persuade China that its own long-term self-interest is in playing by the rules of the game.

I think the Vietnam war, United States policy, United States decision to get into Vietnam, did—it should have taught us a lesson that we need to understand the psychology of our adversaries, if you want to put it in that way, if we want them to—and particularly if they want to change—we want them to change their own behavior.

Now, that said, China's unilateral assertion of its maritime claims that are contrary to principles of Law of the Sea and its willingness sometimes to resort to force and intimidation to achieve its goals have, indeed, become matters of serious concern in Asia and the Pacific.

In terms of understanding where China may be coming from, you know, and psychologically and otherwise, it is important, I think, to keep in mind that, first, China does still feel the humiliation of how the Western powers—Russia and India and Japan occupied and alienated Chinese territory, and even some of its South Asian—smaller Southeast—China Sea neighbors encroached on China's position during the chaos of the Mao's—Chairman Mao's cultural revolution.

But then, second, we should see China's actions in regard to its—the spillover effect of being, until recently, the fastest growing economy in the world, and its seemingly insatiable demand for raw materials and energy.

I should also add that China's approach to territorial disputes in the South China Sea follows the same pattern as in disputes with Japan and its current moribund disputes with North and South Korea. And I would like to add, for a personal note, the same attitude also drives China's determination to exploit the hydroelectric potential of the Mekong River without regard to the interests of 60 million people, or more, in five downstream countries for whom the river is their lifeblood and main source of food security. That happens to be the main focus of my work right now at the Stimson Center.

The United States isn't a party, of course—and we've gone over this already, that—not a party to any of these territorial disputes, but it does have strong interests at stake.

The other—most of them have been mentioned, but I'd particularly—I think you're interested—or expressed an interest in issues like our commercial interest in regional trade and investment, as well as just for general desire to support peace and security—peace and stability in the region.

Also, the USA has other important interests in the region that don't, sometimes, get mentioned, but in which China is a real factor, and they include issues of climate change, global warming, cooperative and environmentally sustainable exploitation of migratory fish stocks, the protection of coral reefs.

The fish-stocks issue is critically important, because it affects food security, it has provoked clashes at sea, in some cases, and it's very hard to have any kind of regional agreement on managing fisheries, so long as the territorial claims are unresolved.

The other witnesses have already talked about the Law of the Sea Convention and the 200-mile Exclusive Economic Zones and the problems that are caused by China's not playing by the same rules in this regard.

What I would like to mention, primarily, in terms of the Law of the Sea Convention, is that there was a deadline of May 13, this year, for countries to submit claims. And there was a land rush, or a sea rush, if you will. Everybody jumped in with their claims. And that has put a higher—generated a higher level of interest and tension about these issues.

The most controversial Chinese actions have been in the Gulf of Tonkin and neighboring parts of the South China Sea, where China repeatedly has drilled for oil and gas in areas claimed by Vietnam, by historical occupation—which are likewise claimed by Vietnam, both by historic occupation and under the Law of the Sea rules.

Chinese ships also have forcefully prevented Vietnamese and other neighboring countries' fishing boats from operating in waters claimed by China.

We've talked about the challenge to the U.S. Navy. I won't get into that, the incident with the *Impeccable*. But, obviously that's an important issue for us.

I do want to mention other Southeast Asian disputes—maritime disputes, which also use competing—also involve competing claims. Thailand and Cambodia are now very active—in a very active dispute over ownership of the Preah Vihear Temple on a mountain that straddles their mutual border, as well as a dispute over the

boundaries of each other's territorial waters. Troops of both countries have been involved in armed clashes.

The maritime disputes involves overlapping claims to oil and gas reserves that Chevron and ConocoPhillips, among others, are seeking to develop.

Thailand and Vietnam also have conflicting claims to parts of the Gulf of Thailand, which is rich—has rich oil and gas deposits. The gulf is particularly difficult to delineate because it is bounded by Cambodia, Malaysia, Thailand, and Vietnam. Everybody can't have a 200-mile EEZ in a curving coastline.

Malaysia, on Borneo, also has a claim to part of the South China Sea that is also claimed by Thailand, Vietnam, the Philippines, and China.

A joint submission by Malaysia and Vietnam to the Law of the Sea—we call it UNCLOS, for short, the U.N. Convention on Law of the Sea—earlier this year provoked an angry response by China and a counterclaim, which, however, was not supported by reference to the provisions of the Law of the Sea, but, again, by China's historical claim.

So, thus far, the direct and indirect impact of China's behavior has mainly affected the opportunities for American and other multinational countries for oil and gas exploration and development, and blocks—and particularly blocs offered by Vietnam.

Numerous claims report that China has—reports claim that China has told American and other multinational companies that if they want to do business with China in their oil and gas business, they should not drill in areas in the Tonkin Gulf and South China Sea that are claimed by Vietnam. This is a real issue, as you know, in China-Vietnam relations.

For understandable reasons, United States multinational energy companies are reluctant to publicize the problems created by China's attitude toward contested claims. But, there have been reports that in 2007 and 2008, China coerced ExxonMobil, as well as BP, to suspend drilling in waters claimed by Vietnam.

Part of my—important part of my testimony, I would say, deals with environmental, social, and economic impacts, but I'm going to skip by those to just try to identify some things that the United States might do in regard to this issue and in support of our allies and friendly countries.

There are several ways that the United States could serve its and Southeast Asia's interests, especially through diplomacy, science, and technology support, and capacity-building to deal with the rising destruction from storms, climate change, and climate change adaptation.

But, to pursue these issues in the context of China's claims and role, it's important for the United States to be on the scene, again. And I won't go into the long story of at least the perception that the United States has been absent from Southeast Asia for a long time, but it has come back, even during the George W. Bush administration. In fact, Ambassador Scot Marciel—or Deputy Assistant Secretary Marciel was our first Ambassador appointed to ASEAN back in 2007. And it apparent—at present, the Obama administration, and especially the State Department, appear to be stepping up the pace of constructive U.S. involvement in the re-

gion. All Southeast Asian capitals will be listening closely to what Secretary of State Clinton has to say when she attends the ASEAN post-ministerial conference between ASEAN and its dialogue partners and the ASEAN Regional Forum in just a couple of days.

The United States would also help the region and itself by responding to requests for material support to ASEAN's Coral Triangle Initiative. I won't get into that now, but it's another issue where ASEAN has had a lot of talk and no action. But, part of that problem is a lack of financial resources and other resources.

Just to conclude, I'd like to say that, at the end of the day, China can't be pushed around. We have to engage with China, and we are engaging with China, including at this high-level United States-China Strategic Economic Dialogue issue. And the important thing for us, I think, is to provide moral support to our friends and allies in the region, but also, again, to work on China to try to make China realize that we can't be pushed around, either, and that its long-term interests lie in the kind of neighborly relations that it always insists that it desires with the ASEAN countries.

Thank you.

[The prepared statement of Dr. Cronin follows:]

PREPARED STATEMENT OF DR. RICHARD P. CRONIN, DIRECTOR, SOUTHEAST ASIA PROGRAM, THE STIMSON CENTER, WASHINGTON, DC

Senator Webb and other members of the Subcommittee on East Asia and Pacific Affairs, I thank you for this opportunity to address the subcommittee about some issues in East Asia and the Pacific which are critical to peace, stability, and balanced development in a part of the world that matters greatly to the United States. For reasons you have implied in your invitation to testify at this hearing, China's unilateral assertion of maritime claims that are contrary to the principles of the Law of the Sea, and its willingness sometimes to resort to force and intimidation to achieve its goals, have become matters of serious concern in Asia and the Pacific.

Nonetheless, if we hope to gain greater Chinese acceptance of the rules and principles of global governance—none of which are completely embraced by any major economic power—we should keep in mind at least two important factors that have influenced China's approach. First, China still feels the humiliation of how the Western colonial powers, Russia, and Japan occupied and alienated Chinese territory. Even some of its South China Sea neighbors encroached on China's position during the chaos of Mao's Cultural Revolution, when Chinese attention was focused inward. Thus, China remains determined to redress what it sees as past injuries and reclaim what it views, rightly or wrongly, as its own. This includes the position it once held as the dominant power in what the world still calls the South China. Second, much of China's assertive behavior is a spillover effect of what until just recently had been the world's fastest growing economy.

Among other goals, China seeks to make its energy and mining companies global players in terms of capitalization, technology, and access rights to important national resources. It would be better for China and its trading partners and competitors if its leaders understood the efficiency of global markets and were not wedded to a mercantilist approach to locking up energy and other natural resources through long-term contracts, but China is not alone in this competition.

Still, China's recent behavior does affect legitimate American and Southeast Asian interests, including freedom of navigation, access to rich undersea oil and gas deposits, and the cooperative and sustainable development of other seabed resources, fisheries, and estuaries. The consequences of China's behavior in the South China Sea in particular jeopardize regional peace and stability, economic development, traditional subsistence livelihoods, and food security among the other countries of the littoral.

China's approach to territorial disputes in the South China Sea follows the same pattern as in disputes with Japan and its currently moribund disputes with North and South Korea. The same attitude also drives China's determination to exploit the hydroelectric power potential of the Mekong River without regard for the interests of 60 million people or more in five downstream countries for whom the river is their lifeblood and main source of food security. From its own developmental

perspective, Chinese policymakers appear to believe that the outward expansion of the Chinese economy is beneficial to all, but in this case the reality is far different. In any event, its behavior toward its downstream neighbors is cavalier and unilateralist. I would be glad to address those issues if you wish, but for now I will concentrate on the South China Sea.

The United States itself is not party to any territorial disputes in Asia, but we have a strong interest in the issues at stake. Also, the while the United States has signed the Convention but has not ratified it. Nonetheless, the United States adheres to the broad principles of the Convention, which it played an important role in drafting. Somewhat ironically, China has ratified the Convention but appears to be seeking to impose its own interpretation as regards its maritime territorial claims.

U.S. interests include the most basic ones such as regional peace and stability, the right of innocent passage of U.S. warships, and important commercial interests in regional trade, investment. China's rejection of accepted international principles also extends to the air, and contributed to the 2001 mid-air collision between a U.S. reconnaissance plane and a Chinese fighter, and the crash landing of the U.S. aircraft on Hainan Island.

At the global level we have a very important interest in the South China Sea with regard to climate change and global warming, the cooperative and environmentally sustainable exploitation of migratory fish stocks and the protection of coral reefs. In fact, the U.S. Government has been deeply and constructively engaged with China on these issues.

With regard to maritime territorial disputes, I will address primarily on so-called "nontraditional security interests" (NTS) such as the impact of territorial disputes on economic development, food security, livelihoods, and on American business interests in the South China Sea and adjacent Southeast Asian waters.

#### IMPACT OF THE LAW OF THE SEA CONVENTION OF 1994

The importance and tenaciousness of conflicting claims to disputed territories has grown steadily since the adoption in 1994 of The United Nations Convention on the Law of the Sea (UNCLOS), the "Law of the Sea," which provides for 200 nautical mile Exclusive Economic Zones (EEZs) extending beyond a country's shore. The Convention also conveys exclusive rights to the seabed resources of a nation's continental shelf, subject to a 350-nautical-mile limit from the "baseline" (most commonly the mean low water line on the shore) and 2,500 meters depth.

The growing tensions over conflicting territorial claims are being driven by presumed seabed resources such as oil and gas and fisheries. The energy sources have become increasingly valuable and easier to extract because of technological advances in drilling and related activities. The rapid decline open water fish stocks and resultant rise in prices has threatened food security in some countries and made jurisdiction over fisheries a source of actual conflict.

Most of the territorial disputes are more heated at this moment because the UNCLOS required countries to submit formal claims by May 13, 2009. Several countries have already made formal complaints to other countries' submissions, most notably by China.

Realistically, it is not possible to draw lines that would give every country a 200-mile EEZ. This means that most of these disputes will have to be settled by negotiations or unilateral actions.

#### CHINA AS THE COMMON DENOMINATOR IN SOUTH CHINA SEA DISPUTES AND THE MEKONG DELTA

Beijing has repeatedly asserted its sovereignty over almost the entire South China Sea, and has acted forcefully to enforce its claims. In 1974 China took advantage of the failing South Vietnamese Government to attack islands in the Paracels group, which had been garrisoned by South Vietnamese troops. The reunified Government of Vietnam maintains the claims of the former Saigon government. In 1998 more than 70 Vietnamese sailors died in a clash between Chinese and Vietnamese ships near Johnson Reef in the Spratlys in 1988. The Spratly Islands incident of 1995 involved China's occupation of small reefs that are 130 nautical miles from the nearest Philippines land mass—well within the Philippines internationally recognized EEZ, and 620 miles from China.

The 1995 incident at Mischief Reef provoked a collective reaction among the ASEAN countries that appears to have taken China by surprise. In response, China proposed joint development of undersea resources until the issues are resolved. In fact, however, China still resolutely refuses to enter into substantive multilateral discussions and has used its superior power to enforce its claims unilaterally.

The most controversial Chinese actions have been in the Gulf of Tonkin and the surrounding parts of the South China Sea, where China has repeatedly drilled for oil and gas in areas claimed by Vietnam by historical occupation and under UNCLOS rules. Chinese ships have also forcefully prevented Vietnamese and other neighboring countries' fishing boats from operating in waters claimed by China.

China is now directly challenging the U.S. Navy's rights to operate in what it considers its EEZ. In March 2009, five small Chinese vessels interfered with operations of a U.S. Navy survey ship, the *Impeccable*, some 75 miles from the shore of China's Hainan Island. China claimed that the *Impeccable* was violating its EEZ by conducting seabed survey operations. Even when the U.S. ship turned fire hoses on the Chinese boats they kept interfering with its forward movement. China also threatened to send an armed patrol boat to protect the smaller craft harassing the U.S. ship and support its jurisdiction over the Paracel and Spratly islands.

#### OTHER SOUTH CHINA SEA DISPUTES

A number of unresolved disputes include those between the countries of the Association of Southeast Asian Nations (ASEAN). Many of these disputes involve competing claims on both land and sea. Some of the more contentious ones include:

- Thailand and Cambodia, including a now very active dispute over ownership of the Preah Vihear Temple on a mountain that straddles their mutual border as well as a dispute over the boundaries of each other's territorial waters. The Preah Vihear dispute is on the front boiler in both countries because of Cambodia's stated intention to unilaterally request the site and its surroundings as a World Heritage protected site. Troops of both countries have been involved in armed clashes. The maritime dispute involves overlapping claims to oil and gas resources that Chevron and ConocoPhillips, among others, are seeking to develop. The handling of this issue by the previous Thai Government played a significant role in Thailand's ongoing political turmoil.
- Thailand and Vietnam also have conflicting claims to the parts of the Gulf of Thailand, which has rich oil and gas deposits. The Gulf of Thailand is particularly difficult to delineate because it is bounded by Cambodia, Malaysia, Thailand, and Vietnam. Cambodia objected to a settlement between Thailand and Vietnam.
- Malaysia (on Borneo) also has a claim to part of the South China Sea that is also claimed by Thailand, Vietnam, the Philippines, and China. A joint submission by Malaysia and Thailand to UNCLOS earlier this year provoked an angry response by China and a counter claim which, however, was not supported by reference to the provision of the Law of the Sea.

#### IMPACT OF CHINA'S BEHAVIOR ON THE ABILITY OF U.S. COMPANIES TO OPERATE IN CONTESTED AREAS

Thus far the direct and indirect impact of China's behavior has mainly affected the opportunities for American multinational companies in oil and gas exploration and development in blocs offered by Vietnam and other countries. This includes the direct operations of U.S. multinationals as well as joint ventures with other multinational companies and national oil and gas companies in Southeast Asia. Numerous reports claim that China has told American and other multinational companies that if they want to do business with China they must not drill in areas of the Tonkin Gulf that are claimed by Vietnam.

Vietnam's oil and gas production has flattened out and probably cannot be increased without the participation of multinational companies. Unless Vietnam and China reach some kind of agreement, Vietnam has little prospect of exploiting some of the most promising oil and gas fields in areas that it claims as territorial waters or EEZs. Beijing has the upper hand, and has been able to pressure multinational oil companies operating in China to stop their survey and drilling operations in valuable leases given by Vietnam.

For understandable reasons U.S. multinational energy companies are reluctant to publicize problems created by China's attitude toward contested claims, but Beijing reportedly has successfully intimidated multinational energy companies from drilling in contested areas. In 2007 and 2008 China reportedly coerced ExxonMobil as well as BP to suspend drilling in waters claimed by Vietnam.

Piracy also remains a problem for U.S. and other countries' shipping companies. As in the case of Somalia, the destruction caused to coastal fisheries by large commercial factory-scale fleets may be contributing to the piracy in the South China Sea and the Strait of Malacca. In recent years, entire ships with cargoes have disappeared and reappeared under different names and flags, and pirates have boarded ships in the Strait of Malacca and held hostages for ransom. Beginning with a 2004

agreement between Indonesia, Malaysia, and Singapore, and support to sea-lane monitoring by the U.S. Navy, these incidents have been trending downward in the last few years.

Still, there is a long history of piracy among the Indonesian and Philippine Islands, and parts of Malaysia's coastline on Borneo. As the potential for legitimate fishing declines, and as the rampant destruction of tropical forests reduces valuable timber cargos, groups with a history of involvement in piracy could return to their previous occupations.

#### ENVIRONMENTAL, SOCIOECONOMIC, AND HUMAN SECURITY IMPACTS

Among many negative consequences of these unresolved territorial disputes, they pose a significant obstacle to the cooperative and sustainable management of the resources of the South China Sea. Various proposals for cooperative efforts to manage fisheries, protect coral reefs, and control the negative impacts of deforestation, mining and urban runoff thus far have been nonstarters.

The rampant overexploitation of fisheries throughout the South China Sea and adjacent waters of the Pacific and Indian Oceans threatens the collapse of important food species. Littoral states cannot control what happens on the high seas but if these disputes could be resolved, countries would have at least the right, even if not the power, to manage their own EEZs.

A number of maritime disputes directly hinder economic development and, at least the possibility of responsible and environmentally and sustainable development. The disputes between Thailand and Cambodia and between China and Vietnam harm the development interests of the weaker parties. Moreover, if Cambodia, for instance, could develop offshore and inshore oil and gas deposits, its government might not feel the same compulsion to resort to destructive hydropower dam projects in currently protected forests in the Cardamom Mountains and on the Mekong mainstream. At present, the high cost of electricity in Cambodia is one of several major obstacles to development.

#### POTENTIAL U.S. ROLE IN SUPPORTING PEACE AND STABILITY

Even though it is not a direct party to these maritime disputes, there are several ways that the United States could serve its own and Southeast Asia's interests, especially through diplomacy, science and technology support, and capacity building to deal with rising destruction from storms and climate change adaptation. The means to pursue these objectives can include:

*More regional involvement, especially in support of ASEAN.* It is widely viewed in the region and among observers and policy analysts both here and elsewhere that with a few important exceptions the United States has been conspicuously absent from the main currents in Southeast Asia for several decades. Thanks in particular to the sometimes unpopular efforts of the officials at our embassies and consulates in the region to get greater attention from Washington, this has been changing since the last years of the Bush administration. The appointment concurrently of Deputy Assistant Secretary of State for East Asia and Pacific Bureau, Scot Marciel, as our first Ambassador to ASEAN in 2007 is a good example of the positive trend in U.S. attention to Southeast Asia.

At present, the Obama administration and especially the State Department appear to be stepping up the pace of constructive U.S. involvement in the region. All Southeast Asian capitals will be listening closely to what Secretary of State Clinton has to say when she attends the ASEAN Post-Ministerial Conference (PMC) between ASEAN and its "dialogue partners" and the ASEAN Regional Forum, in just a couple of days. The expectation is that she will bring a new U.S. initiative, probably regarding support to climate change adaptation and related issues that affect human and food security.

The United States could also help the region and itself by responding to requests for material support to ASEAN's Coral Triangle Initiative. The "Coral Triangle" covers a vast area of sea between Indonesia, Malaysia, the Philippines, Papua New Guinea, Timor Leste, and the Solomon Islands. Host to thousands of fish species worth many billions of dollars a year, the Coral Triangle is under increasing assault from destructive methods used by large commercial fishing fleets—including those of China, South Korea, and Japan and other major seafaring countries—as well as deforestation, and pollution runoff from the land. As with many ASEAN projects, this one has seen more grand commitments than action, but none of the countries have the necessary resources to carry out their commitments. This would be an appropriate project for cooperation with Australia, which has major concerns about this issue and has special relationships with Papua New Guinea (PNG), Timor Leste and the Solomons.

The United States can help resolve maritime disputes between willing nations through support to research on undersea structures and resources, and the collection of data. Initiatives such as these might possibly help countries make a better case to China, and even help it make concessions without appearing to lose face.

*Directly Asserting U.S. Rights and Interests.* Above all, the Obama administration should abandon its predecessors' passive attitude since 1995 toward Chinese behavior in the Spratlys and elsewhere that is not supportable under the principles of the Law of the Sea. The Obama administration should lend at least moral support to Southeast Asian countries which are subject to intimidation, and be resolute in asserting its own rights to free passage in the face of Chinese provocations.

It can do this in the framework of the United States-China Strategic and Economic Dialogue. The upcoming meeting in Washington during July 27–28 follows closely the annual ASEAN Ministerial Meeting and the PMC and ARF meetings in Phuket, Thailand, during July 17–23. Secretary of State Clinton should return from that meeting after getting firsthand knowledge of the concerns of China's neighbors.

Unfortunately, in regard to maritime disputes in the South China Sea, Beijing has put itself on the wrong side of international law and norms. For U.S. and other diplomacy to have any chance of positive impact, however, China's perspectives on maritime territorial disputes and its power in most cases to enforce its claims need to be kept in mind. The only approach that realistically has a chance to succeed is for China to realize that a more flexible approach is in its own long-term self-interest as well as that of its neighbors.

The U.S. Congress can play an important and constructive role by holding hearings such as this one to highlight these issues and by authorizing and funding, after due deliberation, important new U.S. initiatives toward ASEAN and Southeast Asia more generally. U.S. attention need not, and should not, be polarizing, or aimed at stigmatizing China. That simply will not work. Instead, we should make every effort to respect China's aspirations for leadership and major power status, but within the internationally recognized rules and norms, and support those of our Southeast Asian allies and friends as well.

Thank you very much for the privilege of testifying at this hearing. I would be happy to try to answer any questions you may have or respond subsequently for the record.

Senator WEBB. Thank you very much, Dr. Cronin.

And that was actually a very good way to end the testimony of all three of the panelists, all of which I appreciate very much.

I'd like to comment about something you said, about 2 minutes ago, and then clarify my view of what this hearing is all about, and then maybe we can have a discussion. We've got three very divergent sets of experience that we can draw on.

One of the worries that I personally have had for a number of years goes into what you just said, Dr. Cronin, and that is, if we don't have enough discussion in the United States Congress about East Asia—whether it's Northeast Asia or Southeast Asia—in a proactive way—we have fallen into big notions, either reacting to crises, like we saw in Burma last year, or talking about the economic relations with China, which seems to dominate the discussion, and every now and then we kind of talk around the edges. And it's very important, I think, to have the kind of discussion we're having today. This is not a hearing that is designed to bash China; it's a hearing that is designed to raise issues that aren't being discussed. And you cannot resolve problems if you don't discuss them. And that particularly goes for the United States Government in the situation where we find ourselves in with respect to our relations with China, and also with East Asia.

And this is more than the situation of the United States and China, it's very much a question of how we are able to resolve our relationship in a way that maintains a proper balance in this region—

Dr. CRONIN. Right.

Senator WEBB [continuing]. And in a way that all the countries in the region can have the opportunity to grow at their own pace and to interact without fear of retribution. And it's a delicate balance. East Asia has always been a delicate balance. The interests of China are there, Japan are there, the United States, and Russia. It's very unique in the world, in that sense. So, I want to clarify, really, what we're after, today.

I'd like to throw something to the panel, to have all of you react to, and I would start by—this is kind of a segue from what I just said, but it comes from Professor Dutton's testimony. When you mentioned that, "With respect to what's been going on, this unsettling development suggests that our regional partners also sense a shift in power dynamics in the South China Sea, and may need more reassurance that we are currently giving them that, that the United States remains fully committed." This, to me, is sort of a—the jugular issue, from my perspective, with the subject matter of these hearings today. And I'd like to hear from all three of you with respect to that.

And, Professor Dutton, you may as well start.

Professor DUTTON. Well, thank you, sir.

In my line of work, I do a fair amount of traveling throughout East Asia, and we have students of the Naval War College throughout East Asia. And two things are common in almost every conversation. One is the sort of dominating presence of China in all aspects of East Asian society, and sort of questioning American—the continued American commitment to East Asia in light of our current challenges—economic and military—and then also in light of the fact that our relationship with China is, in many ways, very cooperative. I want to emphasize that, as well. It's very cooperative and also very entwined. We are linked in many ways with China, and so, there—leads, frequently, to questioning whether we would prioritize the interests of our friends and allies in the region as highly as they would if chips were down and if we had to essentially stand behind them in a controversy with China.

That's the kind of talk that I hear in—with relative frequency.

Senator WEBB. Thank you.

Mr. Blumenthal.

Mr. BLUMENTHAL. I noted two things in my oral remarks. One was that possibly our greatest ally in the world, besides Britain, Australia, is becoming much more public about their very deep concerns with respect both to China's military modernization, as well as our staying power and our presence in the region. And those things came out very clearly in the Australian white paper. And I would take that as a barometer, as an indicator, because a few years ago in Australia, things weren't—things were the opposite, where we were—we were more concerned about a hypothetical situation in Northeast Asia, where Australia wouldn't be at our side because of Australian commercial interests. Again, the change in Canberra is just dramatic, and, I think, exacerbated by the fact that the head of Rio Tinto in China has been arrested this week, and I think you get the same—you get the same reactions in Tokyo. You've seen the way the Vietnamese—I would say one of the drivers that lead us back into a Visiting Forces Agreement with the Vietnamese was Chinese behavior with respect to the Spratlys

and Paracels, as well as—sorry, the Visiting Forces Agreement with the Philippines and—but, the Vietnamese reach out to us. But, again, I think that there is a sense—I think there is a sense, based on looking at our fiscal situation and based—looking at our budgetary situation, and based on the fact that we already have had to cut down on some military-presence activities, there is a sense of who's going to be in the region longer, China or the United States? And I think countries are already starting to make that calculation.

And that's why I also wanted to stress that, sometimes when we talk about China and Chinese military modernization, we talk about it as if it's some kind of scientific, futuristic scenario, next-door-itis or something like that. For our allies in the region, it's very much a today problem, a daily problem. And therefore, I would start to think about it in terms of what we need to do day to day to keep the balance of power in Asia in order to avoid conflict, and then conceptually put aside what would happen if we actually got into conflict.

So, we do tend to think that it's unthinkable that something could happen in Asia, and our allies are not on the same page about that. And I think we really need to start to show them that, you know, we're serious, and not only through diplomacy and through other means, but also through the military presence to back it up.

Senator WEBB. Thank you.

Dr. Cronin.

Dr. CRONIN. Yes, thank you, Senator Webb.

Frankly, for openers on this, your question, I don't think the real issue right now, and even in the fairly distant future, is about the ability of the U.S. Navy to, you know, deal with the Chinese Navy, if it comes to that, and as Dan says, you know, the sort of unimaginable situation. That's not true of our allies and friends in the region, who are, you know, much weaker in that particular sphere.

But, I want to go back to your issue—the point you made about the need for balancing. And I think there are two aspects to this, some of which I think you were perhaps alluding to already—one is this issue of, you know, maintaining a proper military balance. And I think—I sort of trust that the U.S. Defense Department and the Navy and the Obama administration will take care of that without too much difficulty. But, there's the other issue of balance, and that has to do with this economic crisis, the economic crisis, and the need to rebalance the economies—the United States economy and the Chinese—China's economy and those of Southeast Asia, which are more export-oriented, and we're more import-oriented. And we've now seen that this is an unsustainable kind of situation so that each side has to make some painful adjustments. And these adjustments that are needed are going to create difficulties in our relations with China. But, on the other hand, they will strengthen us, in time, I believe, if we can make this adjustment. It's also a problem for our allies and friends, trading partners in Southeast Asia, a bigger problem, perhaps, than it is for China, although politically, it's maybe a bigger problem for China, in terms of internal politics.

So, I think what's—the big picture here is that the United States and China's roles are—we're still interdependent—economically interdependent, and actually interdependent in a lot of other areas; for instance, we need China to help us deal with North Korea through the six-party talks. We need China to help keep peace in the Strait of Taiwan. There are a lot of reasons why China, you know, is an important country to us.

So, it goes back to the issue of engagement, and then it goes back to the issue of—particularly of rebalancing our economies and rebalancing our political relations.

And to go back to an issue of my interest, which wasn't exactly the South China Sea, but—take, for instance, this Mekong River issue and China's monster dams it is building in Yunnan, which are very threatening to Vietnam and other countries in the region. You know, the Chinese need to ask themselves, and we need to help the Chinese ask themselves, “If you turn the Mekong into the Yangtze, is that going to help your interests in the longer term?” No, I think there's an enormous prospect for blowback. I just spent 3 weeks—just came back a week and a half ago from almost 3 weeks in Thailand, Cambodia, and Vietnam, and had a number of high-level meetings. And I also got down to the Vietnam Delta for the first time, to Can Tho, where I gave a presentation. And, you know, this is an issue that is alarming all of these governments. Maybe the Cambodian Government less so, but there are people in the Cambodian Government who are quite alarmed about it. So, it's an issue where we can engage with China, and we can also engage with these regional countries to help them in various ways to deal with this concern.

Senator WEBB. Let me, if I may, offer a quick reaction to your comment about balance, because I think that's really what we need, in many different ways, here. In terms of military balance, a long time ago, a mentor of mine said that, “Strategy is like birth control, that the possibility of an incident increases if you cease to take the necessary precautions.”

Dr. CRONIN. Exactly. [Laughter.]

Senator WEBB. And this is really—

Dr. CRONIN. Yes.

Senator WEBB [continuing]. Where we are with the sizing of our military. And a big part of a military presence is the credibility that it implies. It's been written many, many times, that there's a difference between a maritime presence and a sea-power presence, which—

Dr. CRONIN. Right.

Senator WEBB [continuing]. Creates a credible deterrence—in fact, I see Professor Dutton rolling his eyes. There's a great piece in the “Naval Review.” I'm going to really date myself here. The “Naval Review” in 1972, there was a German admiral, named Wegner, who wrote a wonderful piece defining “sea power.” If you can ever dig back in the archives and get it, it's one of the best strategic pieces I've ever read.

The other part, in terms of economic balance, we have a serious vulnerability in our relationship with China that feeds a lot of the anxieties on these other issues, but there's also an issue of economic balance in the region. And this is one of the things that I'm

concerned about. And we don't discuss it enough here in the United States. And we are the only guarantor to provide some sort of a credible umbrella under which these other countries in the region can successfully grow their economies without intimidation. So, that's really one of the things that has been a concern of mine.

Dr. Cronin, you mentioned in your testimony, "The United States is not a party to any territorial disputes in Asia, but several allies and important friendly countries are." Could you—or, have you covered that in your testimony? If not, I'd like to hear more about it.

Dr. CRONIN. Well, I didn't go into the United States angle, in particular, but I talked about Thailand—

Senator WEBB. So, you're talking about—

Dr. CRONIN [continuing]. Cambodia—

Senator WEBB [continuing]. Countries in the region—

Dr. CRONIN [continuing]. Vietnam—

Senator WEBB [continuing]. Rather than—

Dr. CRONIN. But, you know—

Senator WEBB [continuing]. External—

Dr. CRONIN [continuing]. Japan—if you go to Northeast Asia, Japan and Korea. Thailand's an ally. Australia has an interest in these issues. But, I'm just saying that the actual seabed claims are—or, EEZ claims—are of interest—deep interest to us. But, they're not our claims.

Senator WEBB. You're not aware of any of those external countries having specifically stated a position on issues like the Spratlys and the Paracels? I'm personally not. I was wondering if you had heard—

Dr. CRONIN. No, I think most countries, apart from the claimants—

Senator WEBB. Right.

Dr. CRONIN [continuing]. Take the same position we do. I do feel, though, that—and I think someone else mentioned this earlier—that we had been too passive in 1995 about that issue. We did the same thing with the assertion by Japan, in this case, that the disputed islands with China were part of Okinawa. In fact, we handed them back to Japan. Before we handed back Okinawa, we had to actually use them, ourselves, for some minor purposes, you know, military exercises, et cetera. That—when it came down to it, the State Department initially said, when this came up several years ago, that, yes, we—we didn't have a—we didn't have an opinion on this issue, but we actually—in practice, we had actually handed back these islands as part of the Okinawa return.

I'm not sure if I've gotten to your—all of your question, but—

Senator WEBB. You did. I'm—

Dr. CRONIN. OK, thank you.

Senator WEBB. I was just curious as to—maybe I was missing something, in terms of parties external to the conflict—

Dr. CRONIN. Yes.

Senator WEBB [continuing]. That were allies of ours, that had taken a specific position. But, I'm not aware that there are any—

Dr. CRONIN. No, I'm not—

Senator WEBB. I don't think there are.

Dr. CRONIN [continuing]. I'm not, either. Thank you.

And the other thing I should mention, related to this, though, is that whether you're talking to the Vietnamese or the Thais or other people—other countries in the—Southeast Asia, yes, they want the United States to be there, they want the United States to maintain balance, military balance in the region, but they don't want the United States to get into a confrontation with China that leads them to—you know, puts them in a position of being the mouse that gets trampled by the elephants. I mean, that's an exaggeration. But, the main point is, what the Vietnamese are looking for is advice from us, "How can we engage China in a nonprovocative way and actually get some headway with them? How do we get their attention in a way that just doesn't get"——

Senator WEBB. I would say that—frankly, I think there's a great concern in the Vietnam Government about this. It's been——

Dr. CRONIN. Yes.

Senator WEBB [continuing]. Communicated to me directly. And they believe they have economic issues that are at risk because of the imbalance. I think that's——

Dr. CRONIN. But, if I could——

Senator WEBB [continuing]. Something that would be——

Dr. CRONIN [continuing]. Mention, also, that—sorry.

Senator WEBB. That's OK.

Dr. CRONIN. Prime Minister Abhisit, from Thailand, and Prime Minister Dung, from Vietnam, just met, last weekend, and one of the main points in the communique was concern about peace and stability in the region, but particularly, in this case, the Mekong issue. And I think that there's a growing concern, both about the South China Sea and about some of the other areas where China, you know, flexes its muscles in a way that makes a lot of people worried.

Senator WEBB. I don't think there's any doubt about that. And as Mr. Blumenthal mentioned, the Burma situation—I think it was Mr. Blumenthal, I think, on the—in testimony, about the perceived activities of—naval activities of China in the Indian Ocean and beyond. I mentioned, in my opening remarks, the more than a billion-dollar oil pipeline deal that the Burmese just entered into with the Chinese, which would obviate the need to go through the Strait of Malacca and would increase an already dramatic economic presence of China in Burma.

At least two of you have something of a disagreement in terms of future growth of the Chinese Navy. Professor Dutton, you're—as a naval officer, you basically are fairly saying what about that? You were saying you don't see that the Chinese Navy has a reason to expand. And I think, Mr. Blumenthal, you had a different view. Would the two of you like to clarify that?

Professor DUTTON. Well, it's kind of a qualified statement that they don't have a reason to expand. But, I—fundamentally, I see China as what the great geostrategist Mackinder would call it, an "inner crescent" power. And what that means is essentially a continental power with a naval—with a need for a navy to support its continental presence. And its naval power will develop in order to meet the needs of its growing trade and regional interests, but probably not developed to the extent to challenge a truly maritime power from the "outer crescent," like the United States, Britain,

Japan once was. These states, like ours, are fundamentally maritime in nature, and we must, in order for our security—maintain the size and quality of the navy to exert global influence in the maritime commons.

China, because of its continental situation, will always have weaknesses on its land front. As we've seen recently, some of them are even internal, others are the potential rise of other powers on the continent, that they have to be concerned about. They cannot afford to put the kind of resources into a navy that we can afford to put into it, we must afford to put into a navy, in order to maintain our national security, would be my essential argument in that regard.

Senator WEBB. Mr. Blumenthal.

Mr. BLUMENTHAL. One of the most interesting debates going on in China has been well documented by Peter Dutton's colleagues at the Naval War College, and that's the fascination with Alfred Thayer Mahan, which is gaining great currency in Chinese naval circles. And we can, as Americans, debate what command of the sea means, or maritime versus sea power, but more interesting is that the Chinese are debating that. And what you get out of—what you get out of them on that is that—for reasons of national prestige and national pride, as well as deep-felt insecurity, partly for the reasons that Richard Cronin mentioned about humiliations and depredations of the past, and a mistrust of the United States, they believe, however—you can interpret Mahan however you want, but they believe that they must look seaward. Most of their oil and gas comes from the sea. Shanghai and so many of the other seas that are at least close to the sea get most—export and import most of their goods in and out of the sea. And you'll get writings that are serious and authoritative from Chinese navalists, that they must break out of this box that they call the "first island chain" that the United States and Japan are constructing around them. That's part of the reason driving them toward their claims on Taiwan. That's part of the reason driving them toward their claims in the Senkakus. Again, defensively, they feel boxed in, and they feel that they have to deny us access to that area, in case of a conflict, Taiwan. But, there are also offensive purposes behind that.

They have—you mentioned the surfacing of the *Song* near the *Kitty Hawk*. But, there has been mapping and service—and other oceanographic and maritime activities all the way up to Guam. Now, again, part of that is defense. I think Admiral Keating, the head of PACOM, made the comment to you about the Chinese joking, "Ha, ha, ha, let's divide up the Pacific. We take up to Hawaii, and you can have the rest." But, you know, the Chinese Navy aren't a bunch of jokers. I mean, they're serious people. And this is—you know, this is—at least informs their decisionmaking.

On the other side, because so much of their—of the other ocean, the Indian Ocean, because so much of their sea and—so much of their oil and gas and trade comes from the Persian Gulf and Africa, they want to—they want to project military power; meaning being able to protect convoys, if need be, meaning being able to retaliate, in case their supply is disrupted. They want to be able to project military power into the Indian Ocean. And they're actually quite clear about that. And the Indians—and I'll just conclude by saying

that, while the Indians don't take a particular position on any of the claims we're talking about, if you believe that these disputes are symptomatic of a Chinese strategy and a growth in power rather than the problem itself—and I think the Indians do—then they do take a position with regard to growing Chinese activity in the South China Sea. A base at Hainan Island from which—from where they could get into the Malacca Strait and out into the Indian Ocean, and these naval facilities from Sri Lanka to Burma and Guam—to Burma and Pakistan.

Senator WEBB. I would say the jury is probably out, but the data points seem to be there. If you look at other continental powers that wanted to become world powers—you look at the German model, you look at the Soviet model—both of those countries consciously decided to grow a navy, even though all their lines of communications were internal at the time they did. The Soviet Union didn't—I think, if you go back to 1946, and you look at the size of the Soviet Navy, it was basically whatever they had taken from the Germans at the end of World War II. They didn't have a navy. And by the time I was Secretary of the Navy, they had a huge navy, but most of it—the preponderance of its power being in Northeast Asia. The—I think, obviously, the thing to watch is whether China intends to develop a carrier force, the concept of a carrier battle group, and what it intends to do with it. We can accept the emerging economy of China, and hopefully deal with that in a very positive way. They're very active in South America, they're active in Africa. But, it'll be interesting to watch that.

Let me ask one final question for the panel. We haven't really discussed this, but, with the activities of China recently in the relocation of the United States—or the planned relocation of much of the United States military into a Guam/Tinian access, how do you see Japanese defense policy evolving?

We can let Mr. Blumenthal start, and I'd be happy to—

Mr. BLUMENTHAL. Yes. Japanese defense policy is evolving in a certain direction, for many reasons, the first of which is probably the failure to resolve to their liking the North Korea nuclear question and the fact that there's now another nuclear power close to them. And so, I would point out that there's a lot of work that went into upgrading the alliance over the last 8 or 9 years, much of it focused on ballistic missile defense. The Japanese certainly showed that, when the alliance is going well, they can do things that otherwise they would claim their constitution prohibits them from doing, whether it was supporting our forces in Operation Enduring Freedom or Operation Iraqi Freedom, in the Indian Ocean it's actually having some troops in Iraq, to doing peacekeeping missions. But, in terms of the China-North Korea question that they're very much focused on BMD right now, and they do have a question of fiscal resources—I would note that, for the first time, they've openly, inside the Liberal Democratic Party, started a working group and a study group on independent conventional strike. It's well known that they're interested in the F-22, if that remains alive. Obviously, there's a lot of questions as to whether their system can handle that. But, you know, frankly, the fact that North Korea's tested ballistic missiles around them has prompted this.

And the fact—one thing that we didn't talk about is—and I'll close on this—is the fact that the Chinese have not only made claims in the Senkakus, but have, in fact, sent maritime vessels, including a submarine, I believe, a *Sovremenny* class destroyer, where the Japanese actually had to chase them out. So, both of these—the sense of threat is rather high, the sense of assurance in the alliance is not where it used to be, and the Japanese can turn, as we've seen, historically, pretty quickly into a much more militarized country.

Senator WEBB. Thank you.

Dr. Cronin, would you like to—

Dr. CRONIN. Well, yes, I actually would, Senator, because I was in Tokyo in the runup to the first North Korea's missile launch, and I must say, it reminded me of Henny Penny, "The sky is falling."

Senator WEBB. You mean in 1998, you're talking about?

Dr. CRONIN. No, the last—

Senator WEBB. Oh, this last one?

Dr. CRONIN. This last one.

Senator WEBB. I was actually there in 1998, when the North Koreans fired the first one. But—

Dr. CRONIN. Yes, OK. And the thing that I found so much dismaying was to hear Japanese politicians posturing on that issue, but not really having anything concrete to say. I think Japan's own defense planning is very reactive, and obviously, as Dan has already pointed out, you know, BMD will be a big area that they'll continue to work—to press on in. But, you know, why they want an F-22, I—it just—it's—it makes you wonder what the basis for a lot of their planning is.

And I think the bottom line, ultimately, is—well, first of all, to go to your question, I don't think our moving from—Marines from Okinawa to Guam will make any difference, in terms of China's role and perceptions of the alliance, particularly since those forces were always earmarked for other things, I think, than that.

But, the other thing is, look at the—you know, I look at—go look at the money. Where's the money? And—

Senator WEBB. If I may, on that point—

Dr. CRONIN. Yes.

Senator WEBB [continuing]. My point really was to the effect of how it would impact Japan, the—

Dr. CRONIN. Oh, yes.

Senator WEBB [continuing]. Relocation, not having the American forces there, rather than China. But—

Dr. CRONIN. I think, in a very mixed way. I mean, the—a lot of people would be glad to see the Marines go, particularly in Okinawa. But, at the same time, yes, it does make—it may make the Japanese more anxious, in general, but I'm not sure, because of the nature of the forces that are being moved, that I think the issue for the Japanese now is ballistic missile defense, air—control of the air, and sea—and defense against submarines, that sort of thing.

But, the—I guess the dismaying thing is simply that they're still hovering around 1 percent of GDP. GDP is falling now. And—

VOICE. We're heading there ourselves.

Dr. CRONIN. Yes, right. So, they don't seem to be able to prioritize in a—what I would say is a very systematic way, and particularly with—in terms of—I think cooperation between the United States and Japanese military is great. I mean, there's no question about that. But, in terms of their own planning, in terms of their own concept of their national defense, I'd defer to others who have more insight into that than I do. I'm kind of bewildered.

Senator WEBB. Professor Dutton, you get the final word.

Professor DUTTON. Yes, I think so, thank you.

I do want to point out that it is the technology edge that we maintain, both naval technology and airforce, space technology, et cetera, that is the strategic balancer in East Asia. And so, to follow up on the point about—it is the type of the forces that matters, I think, in that it will not be that big of a strategic shift, from the perspective of the Japan and China, is important. But, it does underscore our need to maintain the strength of our fleet, the strength of our air power, and the strength of our cyber and space power in East Asia, because technology is our edge.

The strategic balancing is provided by two things, by strategic mass and strategic maneuver, and the way we do that in the region is through technology.

Senator WEBB. Gentlemen, I thank you all for your testimony. I think it was a great hearing. And I hope we're all on the same page, in that what we're after here is the proper communications in the region and maintaining the kind of balance that'll allow the United States to remain involved, but also to allow third countries, who we don't discuss often enough, to have the right kind of economic growth and balance, themselves.

And the hearing record will be open until tomorrow night in case any Senators would like to ask any questions.

Senator WEBB. But, now the hearing is closed.

[Whereupon, at 4:25 p.m., the hearing was adjourned.]

